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2008 AUG 11 AM 8:30

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY [signature] DEPUTY

NEHEMIAH ROBINSON J-71342
CALIPATRIA STATE PRISON (ASU, E-POD #148)
P.O. BOX 5008
CALIPATRIA, CA. 92233

NUNC PRO TUNC
AUG - 5 2008

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

NEHEMIAH ROBINSON,

Plaintiff,

v.

T. CATLETT, ET AL.,

Defendants.

08-CV-00161-H (BLM)

DECLARATION OF N. ROBINSON IN SUPPORT OF REQUEST FOR JUDICIAL NOTICE AND SUPPORT OF OPPOSITION TO DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT.

HEARING: JULY 29, 2008
TIME: 9:00 A.M
COURTROOM: 5140
JUDGE: THE HONORABLE BARBARA L. MAJOR

I, N. ROBINSON, DECLARE AS FOLLOWS:

1. I AM THE PLAINTIFF IN THE CIVIL SUIT BEFORE THE COURT.

2. THAT I HAVE BEEN LOCATED AND HOUSED AT CALIPATRIA STATE PRISON (CAL) IN CALIPATRIA CALIFORNIA, SINCE JANUARY 6TH, 2006; UNTIL THIS DAY.

3. THAT I PERSONALLY PREPARED AND FILED EACH AND EVERY COMPLAINT AND/OR APPEAL ATTACHED TO THIS DECLARATION WHILE HERE AT CALIPATRIA

CR

STATE PRISON (CAL) IN CALIPATRIA CALIFORNIA.

4. THAT IN ORDER FOR AN APPEAL AND/OR COMPLAINT TO PROCEED TO THE FIRST, SECOND, LEVEL, IT MUST FIRST BE PROCESSED BY THE APPEALS COORDINATOR HERE AT CALIPATRIA STATE PRISON, (CAL) IN CALIPATRIA CALIFORNIA.

5. I MAKE THE FOLLOWING DECLARATION OF FACTS BASED ON MY OWN KNOWLEDGE AND, IF CALLED, CAN TESTIFY COMPETENTLY THERETO,

6. THE DOCUMENTS ARE TRUE AND CORRECT COPIES OF RECORDS KEPT BY CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) HERE AT THE INSTITUTION AND WAS ISSUED BY CORRECTIONAL OFFICERS HERE AT CALIPATRIA STATE PRISON, (CAL) IN CALIPATRIA CALIFORNIA. THEY ARE TRUE COPIES OF DOCUMENTS PREPARED BY CDCR STAFF IN THE ORDINARY COURSE OF BUSINESS.

7. ATTACHED AS EXHIBIT 1 IS A TRUE AND CORRECT COPY OF THE INMATE APPEAL WITH THE REASONABLE MODIFICATION OR ACCOMMODATION REQUEST, DATED BY NEHEMIAH ROBINSON J-71342 AS MARCH 29, 2006, ALONG WITH DOCUMENTS SUBMITTED BY ROBINSON AND THE FIRST, SECOND, AND DIRECTOR'S LEVEL RESPONSES.

8. ATTACHED AS EXHIBIT 2 IS A TRUE AND CORRECT COPY OF THE INMATE APPEAL DATED BY NEHEMIAH ROBINSON J-71342 AS JUNE 18, 2007, ALONG WITH THE FIRST, SECOND AND DIRECTOR'S LEVEL RESPONSES.

9. ATTACHED AS EXHIBIT 3 IS A TRUE AND CORRECT COPY OF THE REASONABLE MODIFICATION OR ACCOMMODATION REQUEST DATED BY NEHEMIAH ROBINSON J-71342 AS SEPTEMBER 11, 2007, WITH DOCUMENTS SUBMITTED BY ROBINSON, ALONG WITH THE RESPONSES.

10. ATTACHED AS EXHIBIT 4 IS A TRUE AND CORRECT COPY OF THE INMATE APPEAL DATED BY NEHEMIAH ROBINSON J-71342 AS SEPTEMBER 12, 2007, WITH DOCUMENTS SUBMITTED BY ROBINSON, ALONG WITH THE FIRST,

SECOND, AND DIRECTOR'S LEVEL RESPONSES.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF CALIFORNIA AND THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON JULY 30TH, 2008, AT CALIPATRIA, CALIFORNIA.

Mr. Nehl Robi

N. ROBINSON J-71342, PLAINTIFF
PRO'SE

RECEIVED CAL APPEALS APR 05 2006

CAL B 06 00951

INMATE/PAROLEE APPEAL FORM
CDC 602 (12/87)

Location: Institution/Parole Region
1. ______
2. ______

Log No.
1. ______
2. ______

Category
______

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
Nehemiah Robinson	J-71342	——	B-1-#133 u.

A. Describe Problem: Petitioner here by move to redress the deprivation, under Color of State law, of rights secured by the U.S. Constitution. I hereby invoke my federally secured and established right to file this Complaint per: the 1ST Amend. of the U.S. Constitution, Per. CCR Title 15 § 3084.1.(a) and Per. the Settlement Agreement reached in Plata v. Davis (Plata is a federal civil rights class action lawsuit regarding medical care in all California Prisons, and every CDC Prisoner who has a serious medical Condition is a member of the Class Covered by the lawsuit.) Petitioner assert that he is a "Chronic Care Patient" that suffers from "significant

If you need more space, attach one additional sheet.

B. Action Requested: Whereofore it is respectfully requested (1) that the Housing SGT. return Petitioners CDC 7410 (Comprehensive Accommodation Chrono), (2) be placed in a vacant cell, in facility "B", #1 block (when a vacant cell is available) in keeping with the CDC 7410, and (3) be allowed to submit this CDC 602 (appeal) to the appeals Coordinator due to the Housing SGT. destruction/loss of previous CDC 602 submitted to him for informal level response. thank you

Inmate/Parolee Signature: [signature] Date Submitted: 3-29-06

C. INFORMAL LEVEL (Date Received: ______)

Staff Response: ______

Staff Signature: ______ Date Returned to Inmate: ______

RECEIVED JUN -7 2006 INMATE APPEALS BRANCH

D. FORMAL LEVEL
If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Petitioner assert that he "have not" received the CDC 7410 (Comprehensive Accommodation chrono) [redacted] dated "1-6-06" authored by DR. AN MINH NGUYE, that was attached to the "Previous CDC 602 regarding this matter," submitted to C/O Arvizu on or about "3-18-06" and he (C/O Arvizu) gave said CDC 602 to "SGT. Catlett." Said CDC 7410 is to be returned to petitioner. thank you

Signature: [signature] Date Submitted: 5-10-06

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:

RECEIVED APPEALS APR 05 2006

Additional Sheet
Cont. of A:
(describe problem)

CAL B 06 00951

Collagen Vascular disease / Post-Traumatic degenerative arthritis in major Joints (please see medical file) which debilitate and impairs my ability to function normal during the cold seasons, et. Petitioner further assert that he underwent "A.C.L Reconstruction with auto-graft of the (R) Knee"; asserting that Petitioner also suffer from a "Lateral Meniscal Tear and await surgery" (please see medical file).

On or about 2-6-06, Petitioner was placed in facility "B", housed in #1 block, in cell #133; and assigned to the "upper bunk", due to their not being any more bedspace in the present, and other blocks within facility "B" (as stated by the then "Housing SGT."); asserting that his cellie is assigned to the lower bunk, and he suffers from a bad back / bad knee, and weight well-over-230-pounds! Petitioner assert that on or about [redacted] 3-17-06, he submitted a CDC 602 (appeal) with attached CDC 7410 (comprehensive accommodation chrono) addressing Petitioners required accommodations (due to a medical condition) to wit (1) Ground floor cell, (2) Bottom bunk and (3) Cane (dont have copy of said chrono nor do i recall date of said chrono); asserting that the CDC 602 (appeal) was submitted to "C/o Garrett," respectfully requesting to be placed in cell-#144, which was a "Vacant cell", located in block #1, on the lower tier. On or about 3-17-06, C/o Garrett gave Petitioner back the CDC 602 (appeal) and instructed him to submit the CDC 602 (appeal) to his co-worker "C/o M. Arvizu" because he (C/o Garrett) didn't have time to look into the issue, et; asserting that C/o Garrett stated that his co-worker will inform the Housing SGT. on the situation and submit the CDC 602 (appeal) to the Housing SGT. Petitioner assert that he did as instructed by C/o Garrett and submitted the CDC 602 (appeal) to C/o M. Arvizu. On or about 3-18-06, Petitioner asked C/o M. Arvizu did he give the (over)

RECEIVED CAL APPEALS MAY 1 2 2006

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

REASONABLE MODIFICATION OR ACCOMMODATION REQUEST

CDC 1824 (1/95)

INSTITUTION/PAROLE REGION:	LOG NUMBER:	CATEGORY:
CAL CAL	B 06 00951	18. ADA

NOTE: **THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES**

In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act.

INMATE/PAROLEE'S NAME (PRINT)	CDC NUMBER	ASSIGNMENT	HOURS/WATCH	HOUSING
Robinson, Nehemiah	J71342	—		B1-133L

In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disability shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination.

You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/institution/facility, for which you are otherwise qualified/eligible to participate.

Submit this completed form to the institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you.

If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review.

To proceed to SECOND LEVEL, attach this form to an Inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form.

Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form.

If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602.

MODIFICATION OR ACCOMMODATION REQUESTED

DESCRIPTION OF DISABILITY:

See attached

WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY?

See attached

RECEIVED JUN - 7 2006 INMATE APPEALS BRANCH

DESCRIBE THE PROBLEM:

See attached

WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED?

See attached

INMATE/PAROLEE'S SIGNATURE

DATE SIGNED

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

COMPREHENSIVE ACCOMMODATION CHRONO

INSTRUCTIONS: A physician shall complete this form if an inmate requires an accommodation due to a medical condition. Circle P if the accommodation is to be permanent, or T if the accommodation is to be temporary. If the accommodation is temporary, write the date the accommodation expires on the line. A new form shall be generated when a change to an accommodation is required or upon renewal of a temporary accommodation. Any new form generated shall include previous accommodations, if they still apply. Chronos indicating permanent accommodations shall be reviewed annually. This form shall be honored as a permanent chrono at all institutions.

A. HOUSING

None		Bottom Bunk	P / (T) 2/8/07
Barrier Free/Wheelchair Access	P / T	Single Cell (See 128-C date:)	P / T
Ground Floor Cell	P / (T) 2/8/07	Permanent OHU / CTC (circle one)	P / T
Continuous Powered Generator	P / T	Other	P / T

B. MEDICAL EQUIPMENT/SUPPLIES

None		Wheelchair: (type)	P / T
Limb Prosthesis	P / T	Contact Lens(es) & Supplies	P / T
Brace Neoprene Knee brace medium size	P / (T) 2/8/07	Hearing Aid	P / T
Crutches	P / T	Special Garment: (specify)	P / T
Cane: (type) for ambulation	P / (T) 2/8/07	Rx. Glasses:	P / T
Walker	P / T	Cotton Bedding	P / T
Dressing/Catheter/Colostomy Supplies	P / T	Extra Mattress	P / T
Shoe: (specify)	P / T	Other	P / T
Dialysis Peritoneal	P / T		

C. OTHER

(None)		Therapeutic Diet: (specify)	P / T
Attendant to assist with meal access and other movement inside the institution. Attendant will not feed or lift the inmate/patient or perform elements of personal hygiene.	P / T	Communication Assistance	P / T
		Transport Vehicle with Lift	P / T
		Short Beard	P / T
Wheelchair Accessible Table	P / T	Other	P / T

D. PHYSICAL LIMITATIONS TO JOB ASSIGNMENTS

Based on the above, are there any physical limitations to job assignments? ☒ Yes ☐ No

If yes, specify: light duty no lifting, no pushing over 15 lbs.

INSTITUTION: Cal SP	COMPLETED BY (PRINT NAME): Ann M McQueen	TITLE: MD
SIGNATURE: [signature]	DATE: 2/8/06	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH: ROBINSON, N. J 71342 DOB: 12/1/67 B1.133
HCM/CMO SIGNATURE: [signature] M.D.	DATE: 2/16/06	
(CIRCLE ONE) (APPROVED) / DENIED	CC: Smith RR CCI/C3PR assignment ofc. Chief officer	

COMPREHENSIVE ACCOMMODATION CHRONO

Distribution: ... Gold - Inmate

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS

COMPREHENSIVE ACCOMMODATION CHRONO

INSTRUCTIONS: A physician shall complete this form if an inmate requires an accommodation due to a medical condition. Circle P if the accommodation is to be permanent, or T if the accommodation is to be temporary. If the accommodation is temporary, write the date the accommodation expires on the line. A new form shall be generated when a change to an accommodation is required or upon renewal of a temporary accommodation. Any new form generated shall include previous accommodations, if they still apply. Chronos indicating permanent accommodations shall be reviewed annually. This form shall be honored as a permanent chrono at all institutions.

A. HOUSING

None		Bottom Bunk	P (T) 01/06/07
Barrier Free/Wheelchair Access	P / T ______	Single Cell (See 128-C date: ______)	P / T ______
Ground Floor Cell	P (T) 01/06/07	Permanent OHU / CTC (circle one)	P / T ______
Continuous Powered Generator	P / T ______	Other ______	P / T ______

B. MEDICAL EQUIPMENT/SUPPLIES

None		Wheelchair: (type) ______	P / T ______
Limb Prosthesis	P / T ______	Contact Lens(es) & Supplies	P / T ______
Brace	P / T ______	Hearing Aid	P / T ______
Crutches	P / T ______	Special Garment:	
Cane: (type) (ONE)	P (T) 01/06/07	(specify) ______	P / T ______
Walker	P / T ______	Rx. Glasses: ______	P / T ______
Dressing/Catheter/Colostomy Supplies	P / T ______	Cotton Bedding	P / T ______
Shoe: (specify) ______	P / T ______	Extra Mattress	P / T ______
Dialysis Peritoneal	P / T ______	Other ______	P / T ______

C. OTHER

None		Therapeutic Diet: (specify) ______	P / T ______
Attendant to assist with meal access and other movement inside the institution.	P / T ______	Communication Assistance	P / T ______
Attendant will not feed or lift the inmate/patient or perform elements of personal hygiene.		Transport Vehicle with Lift	P / T ______
		Short Beard	P / T ______
Wheelchair Accessible Table	P / T ______	Other ______	P / T ______

D. PHYSICAL LIMITATIONS TO JOB ASSIGNMENTS

Based on the above, are there any physical limitations to job assignments? ☐ Yes ☐ No

If yes, specify: Hx of Ant. Cruciate Lig. Repair ē ... Osteoarthritis ...

INSTITUTION	COMPLETED BY (PRINT NAME)	TITLE
CAL	C - SANTIAGO	M-D

SIGNATURE	DATE	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH
[signature]	01/06/06	ROBINSON, NEHEMIAH J71342 DOB 12/01/67 B1-133[4]
HCM/CMO SIGNATURE M. Levin ... Levin CMO	DATE 1/13/06	
(CIRCLE ONE) (APPROVED) / DENIED	cc: SMA RR Chrg. officer	

COMPREHENSIVE ACCOMMODATION CHRONO

05-12-06 11:02am From-Calipatria Med Dept 760 348 6032 T-268 P.001/002 F-202

RECEIVED CAL APPEALS MAY 0 8 2006

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS

COMPREHENSIVE ACCOMMODATION CHRONO

INSTRUCTIONS: A physician shall complete this form if an inmate requires an accommodation due to a medical condition. Circle P if the accommodation is to be permanent, or T if the accommodation is to be temporary. If the accommodation is temporary, write the date the accommodation expires on the line. A new form shall be generated when a change to an accommodation is required or upon renewal of a temporary accommodation. Any new form generated shall include previous accommodations, if they still apply. Chronos indicating permanent accommodations shall be reviewed annually. This form shall be honored as a permanent chrono at all institutions.

A. HOUSING

None		Bottom Bunk	P / T
Barrier Free/Wheelchair Access	P / T	Single Cell (See 128-C date:)	P / T
Ground Floor Cell	P / T	Permanent OHU / CTC (circle one)	P / T
Continuous Powered Generator	P / T	Other	P / T

B. MEDICAL EQUIPMENT/SUPPLIES

None		Wheelchair: (type)	P / T
Limb Prosthesis	P / T	Contact Lens(es) & Supplies	P / T
Brace	P / T	Hearing Aid	P / T
Crutches	P / T	Special Garment: (specify)	P / T
Cane: (type)	P / T		
Walker	P / T	Rx. Glasses:	P / T
Dressing/Catheter/Colostomy Supplies	P / T	Cotton Bedding	P / T
Shoe: (specify) tennis shoes (self purchase)	P / (T) 3/22/07	Extra Mattress	P / T
Dialysis Peritoneal	P / T	Other	P / T

C. OTHER

None		Therapeutic Diet: (specify)	P / T
Attendant to assist with meal access and other movement inside the institution. Attendant will not feed or lift the inmate/patient or perform elements of personal hygiene.	P / T	Communication Assistance	P / T
		Transport Vehicle with Lift	P / T
		Short Beard	P / T
Wheelchair Accessible Table	P / T	Other Waist restraints cuffs	P / (T) 3/22/07

D. PHYSICAL LIMITATIONS TO JOB ASSIGNMENTS

Based on the above, are there any physical limitations to job assignments? ☐ Yes ☐ No

If yes, specify:

INSTITUTION: CalSP	COMPLETED BY (PRINT NAME): A M [illegible]	TITLE: MD
SIGNATURE: [signature]	DATE: 3/22/06	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH: Robinson, N J 71342 B1-133L
HCM/CMO SIGNATURE: [signature] CMO	DATE: 3/27/06	
(CIRCLE ONE) (APPROVED) / DENIED		

CC RER Housing Officer

COMPREHENSIVE ACCOMMODATION CHRONO

CDC 7410 (03/04)

Distribution: Original - Unit Health Record. Canary - Central File Pink - Correctional Counselor Gold - Inmate

RECEIVED CAL APPEALS MAY 08 2006

Calipatria State Prison

Calipatria California

SUPPLEMENTAL PAGE
FIRST LEVEL APPEAL

TO:	**INMATE ROBINSON, J-71342**
RE: APPEAL LOG NUMBER:	**CAL-B-06-00951**
APPEAL DECISION:	**PARTIALLY GRANTED**
INMATE INTERVIEWED BY:	**CORRECTIONAL SERGEANT, T. CATLETT**
APPEAL ISSUE:	**ADA**

APPEAL RESPONSE: In consideration of your appeal, a thorough review of your appeal and its attachments was conducted. The California Code of Regulations and all applicable laws and procedures were considered along with the contents of your Central File.

It is your position your medical condition necessitates you be housed in a cell on the lower bunk and on the lower tier.

You requested to be placed in a vacant cell on Facility B.

You were interviewed on April 25, 2006, by Correctional Sergeant T. Catlett, regarding your appeal. During the interview you indicated all you had to say was already in the appeal. Attached is a copy of your current CDC7410, indicating you are to be assigned to a lower bunk / lower tier." On May 4, 2006, a CDC-154 (attached) was generated moving you to a lower bunk / lower tier." You are not entitled to a "vacant cell".

Based on the above information, your appeal is **PARTIALLY GRANTED** at the First Level of review.

W. J. PRICE
Facility Captain
Facility B

State of California   Department of Corrections and Rehabilitation

Memorandum

Date : MAY 3 0 2006

To : INMATE ROBINSON, J71342

Subject: **SECOND LEVEL APPEAL RESPONSE**
LOG NO: CAL-B-06-00951

ISSUE: ADA

It is your position that due to your medical condition you should be housed in a vacant cell with a lower tier/lower bunk assignment on Facility "B". Additionally, you are requesting your CDC 7410, Comprehensive Accommodation Chrono be returned to you from the "Housing Sergeant" and you be allowed to file a CDC 602, Inmate Appeal with Appeals regarding your complaint.

You are requesting reassignment to a vacant cell on Facility "B" when a vacant cell is available.

INTERVIEWED BY: T. Catlett, Correctional Sergeant

REGULATIONS: The rule(s) governing this issue is (are):

California Code of Regulations, Title 15, Section 3375, Classification Process
Department Operations Manual, Section 520220.4.3 and
The Americans with Disabilities Act

DISCUSSION:

On May 4, 2006, a CDC " 154, Inmate Transfer/Housing Assignment Change, was generated moving you to a lower bunk on the lower tier to comply with the CDC 7410 Chrono dated February 16, 2006." In your appeal you stated you spoke with the "Housing Sergeant", however, Calipatria State Prison does not have a "Housing Sergeant" position. The Housing Lieutenant makes the appropriate cell moves and bed assignments.

A review of your Central File indicates you were cleared for double cell housing on January 18, 2006, during Initial Classification Committee. A further review of the CDC 7410, Chrono signed and dated February 16, 2006, does not indicate you required vacant or single cell housing.

CDC 1617 (3/89)

Two copies of the CDC 7410, Chronos were returned to you on May 21, 2006, and as you requested this CDC 602, Inmate Appeal was processed through the Appeals Coordinator. You were subsequently moved to your current cell assignment of B2-107L.

DECISION: The appeal is Partially Granted at the Second Level of Review.

The appellant is advised that this issue may be submitted for a Director's Level of Review if desired.

M. E. BOURLAND
Chief Deputy Warden (A)
Calipatria State Prison

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: JUN 2 8 2006

In re: Robinson, J-71342
Calipatria State Prison
P.O. Box 5002
Calipatria, CA 92233

IAB Case No.: 0513814 Local Log No.: CAL 06-00951

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner K. J. Allen. All submitted documentation and supporting arguments of the parties have been considered.

I **APPELLANT'S ARGUMENT:** It is the appellant's position that due to his medical condition he should be housed in a vacant cell on a lower tier. The appellant believes that staff would be violating his constitutional rights if he does not receive the lower bunk chrono. The appellant also requests a copy of his CDCR Form 7410, Comprehensive Accommodation Chrono.

II **SECOND LEVEL'S DECISION:** The reviewer found that the appellant is currently housed in a lower tier cell and assigned to the lower bunk consistent with his CDCR Form 7410, dated February 16, 2006. A review of the appellant's central file indicates he is clear for double-cell housing and there is nothing in his Unit Health Record that indicates he requires single-cell housing. Lastly, the reviewer notes that two copies of the appellant's CDCR Form 7410 were provided to him on May 21, 2006. The appeal was partially granted at the Second Level of Review.

III **DIRECTOR'S LEVEL DECISION:** Appeal is denied.

A. **FINDINGS:** The appeal received a through review by supervisory staff, and the appellant's housing is consistent with his medical needs. Additional relief from the Director's Level of Review is unwarranted.

The appellant has added new issues and requests to his appeal regarding a correctional sergeant not properly responding to his original appeal. The additional requested action is not addressed herein as it is not appropriate to expand the appeal beyond the initial problem and the initially requested action (CDC Form 602, Inmate/Parolee Appeal Form, Sections A and B). This must be submitted to the institution for review on a separate appeal in order to allow institutional staff the opportunity to respond and, possibly, provide the appellant with a satisfactory response.

B. **BASIS FOR THE DECISION:**
Armstrong v. Davis Court Ordered Remedial Plan: ARPI, ARPII.A, ARPII.F, ARPIV.I
California Code of Regulations, Title 15, Section: 3001, 3350, 3354

C. **ORDER:** No changes or modifications are required by the institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.

N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, CAL
Health Care Manager, CAL
Appeals Coordinator, CAL
Medical Appeals Analyst, CAL

ROBINSON, NEHEMIAH V. T. CATLETT, et al.

USDC - SOUTHERN DISTRICT CASE NO. 08-CV-00161-H (BLM)

EXHIBIT 2

RECEIVED CAL APPEALS JUL 03 2007

STATE OF CALIFORNIA RECEIVED CAL APPEALS JUL 27 2007 DEPARTMENT OF CORRECTIONS

INMATE/PAROLEE APPEAL FORM
CDC 602 (12/87)

Location: Institution/Parole Region — 1. CAL — 2.
Log No. — 1. 07-01247 — 2.
Category: 8, Per CDW

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
NEHEMIAH ROBINSON	J-71342	———	B-2-107

A. Describe Problem: PETITIONER HEREBY MOVE TO REDRESS THE DEPRIVATION, UNDER COLOR OF STATE LAW, OF RIGHTS SECURED BY THE U.S. CONSTITUTION. I HEREBY INVOKE MY FEDERALLY SECURED AND ESTABLISHED RIGHT TO FILE THIS COMPLAINT PER. THE 1ST AMEND. OF THE U.S. CONSTITUTION, PER. CCR TITLE 15 § 3084.1. (a) AND PER THE SETTLEMENT AGREEMENT REACHED IN PLATA V. DAVIS (PLATA IS A FEDERAL CIVIL RIGHTS CLASS ACTION LAWSUIT REGARDING MEDICAL CARE IN ALL CALIFORNIA PRISONS, AND EVERY CDC PRISONER WHO HAS SERIOUS MEDICAL CONDITION IS A MEMBER OF THE CLASS COVERED BY THE LAWSUIT.) PETITIONER ASSERT THAT HE IS A "CHRONIC CARE PATIENT" THAT SUFFER FROM "SIGNIFICANT COLLAGEN VASCULAR DISEASE / →

If you need more space, attach one additional sheet.

B. Action Requested: WHEREFORE IT IS RESPECTFULLY REQUESTED 1) TO KNOW WHEN SAID MEDICATION WAS APPROVED AND THE START DATE FOR PETITIONER TO RECEIVE SAID MEDICATION, 2) TO BE GIVEN THE PRESCRIBED MEDICATION ON TIME, 3) MEDICAL STAFF RESPONSIBLE BE COUNSELED TO PREVENT FURTHER INCIDENTS OF THIS NATURE, AND 4) COMPENSATED $5,000.00 FOR PAIN AND SUFFERING.

Inmate/Parolee Signature: [signature] Date Submitted: 6-18-07

C. INFORMAL LEVEL (Date Received: ____________)

Staff Response: ____________

Staff Signature: ____________ Date Returned to Inmate: ____________

RECEIVED SEP 18 2007 INMATE APPEALS BRANCH

CSP-CAL-BYPASS

RECEIVED CAL APPEALS JUL 03 2007

D. FORMAL LEVEL
If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: ____________ Date Submitted: ____________

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: CAL 07-01247

RECEIVED CAL APPEALS JUL 03 2007
CAL
S0701242
RECEIVED CAL APPEALS JUL 27 2007

(DESCRIBE PROBLEM)

POST-TRAUMATIC DEGENERATIVE ARTHRITIS IN MAJOR JOINTS (PLEASE SEE MEDICAL FILE) WHICH DEBILITATE AND IMPAIRS MY ABILITY TO FUNCTION NORMAL AT TIMES. PETITIONER FURTHER ASSERT THAT HE UNDERWENT "A.C.L RECONSTRUCTION WITH AUTO-GRAFT OF THE RIGHT KNEE, ASSERTING THAT PETITIONER ALSO SUFFER FROM A "LATERAL [redacted] MENISCAL TEAR AND AWAIT SURGERY ON THE RIGHT KNEE" (PLEASE SEE MEDICAL FILE).

PETITIONER ASSERT THAT HE HAVE BEEN EXPERIENCING SEVERE PAIN IN HIS RIGHT KNEE AND IN HIS MAJOR JOINTS. PETITIONER HAS COMPLAINED CONTINUOUSLY OF SAID CONDITIONS. AND AS A RESULT, PETITIONER WAS TAKEN TO AN OUT-SIDE HOSPITAL IN THE MONTH OF MAY, 07; EXAMINED AND PRESCRIBED PAIN MEDICATION BY AN ORTHO-SPECIALIST (NAME UNKNOWN) (SEE MEDICAL FILE). THE DOCTOR (SPECIALIST) PRESCRIBED "TRAMADOL HYDROCHLORIDE 50 MG TABLET".

PETITIONER ASSERT THAT ON 6-17-07, AT 4:40 P.M.; D. NOREIGA (LVN) GAVE ME MY MEDICATION, RECEIVED FOR THE "FIRST TIME"; TO WIT, TRAMADOL HYDROCHLORIDE 50 MG TABLET. D. NOREIGA (LVN) STATED THAT SHE DONT KNOW WHY PETITIONER HAVE NOT BEEN RECEIVING HIS PAIN MEDICATION, AND DONT KNOW WHEN IT WAS APPROVED, THAT SHE WILL LET ME KNOW TOMORROW.

PETITIONER ASSERT THAT ON 6-18-07 AT OR ABOUT 7:15 A.M D. NOREIGA (LVN) WAS PASSING OUT MEDICATION AND [redacted] PETITIONER REQUESTED HIS PAIN MEDICATION? D. NOREIGA (LVN) DID NOT HAVE PAIN MEDICATION FOR PETITIONER, NOR DID SHE RECALL GIVEN PETITIONER HIS PAIN MEDICATION ON 6-17-07, NOR COULD D. NOREIGA (LVN) GIVE THE DATE SAID MEDICATION WAS APPROVED. D. NOREIGA (LVN) THEN WROTE PETITIONER NAME DOWN AND SAID THAT SHE WILL CHECK INTO THE MATTER. PETITIONER ASSERT THAT HE MADE D. NOREIGA AWARE OF THE FACT THAT [redacted] HE IS IN SEVERE PAIN. (SEE REVERSE SIDE)

State of California Department of Corrections and Rehabilitation

Memorandum

Date : August 20, 2007

To : Inmate ROBINSON, N. CDC# J71342
B2-107

Subject : **SECOND LEVEL APPEAL RESPONSE**
LOG NO: CAL-B-07-01247

ISSUE: The appellant is submitting this appeal relative to MEDICAL.

It is the appellant's position that he suffers from severe pain to his right knee and in his major joints. The appellant claims he was seen by an Ortho Specialist in May 2007, and was prescribed Tramadol for his pain; however, appellant claims he never received his medication.

The appellant is requesting to know when the medication was ordered and when he was suppose to receive it. The appellant further request that he receive the medication on time and that medical staff be counseled to prevent further incidents from occurring and that he be compensated $5000.00 for pain and suffering.

INTERVIEWED BY: J.M. SALGADO, RN, on July 20, 2007.

REGULATIONS: The rules governing this issue are:

California Code of Regulations, Title 15, Article (CCR) 3350. **Provision of Medical Care and Definitions**

DISCUSSION: In consideration of this appeal, a review of the appeal and its attachments was conducted. The CCR and all applicable laws and procedures were also considered along with the contents of the appellant's Unit Health Record (UHR) and a personal interview.

The appellant was advised in the First Level Response that the medication (Tramadol) was ordered on May 23, 2007, but was never noted. The revised CDCR formulary of May 2007, had removed Tramadol. Delay occurred due to clarification of usage from Sacramento. After discussion with the Pharmacy staff in regard to the appellant's concern, Pharmacy staff stated that the Tramadol was ordered for the appellant on May 23, 2007 and again on August 2, 2007. The appellant's concern that he did not receive his medication in a timely manner was addressed with the Facility B Medical staff. Medical staff was advised of the importance of medication being delivered to the Inmate/Patient's in a timely manner or as soon as a discrepancy is determined. The appellant was seen on August 1, 2007, by his Primary Care Provider (PCP), S. Young, and the medication was ordered again for ninety days. The appellant is currently receiving his medication. Also a referral was submitted to the Medical Authorization Review Committee for the appellant to be seen by an Orthopedist, which is currently pending approval. The appellant is advised that in the future when medication needs to be refilled, he should notify medical staff a week prior to medication running out. If medication is not received, appellant is advised to notify medical staff as soon as possible. The appeal process does not allow for monetary compensation at any level.

DECISION: The appeal is **Partially Granted** at the Second Formal Level in that the appellant is receiving the Tramadol ordered by the specialist and his PCP. The appellant is also advised that the referral to see the Orthopedist is currently being reviewed by the MAR Committee and pending approval.

The appellant is advised that his issue may be submitted for a Director's Level Review within 15 days of receipt of this response if desired.

M. CORREA, RN
Supervising Registered Nurse II
Calipatria State Prison

Reviewed by:

K. BALL, D.O., CP&S
Chief Physician/Surgeon
Calipatria State Prison

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: DEC 14 2007

In re: Nehemiah Robinson, J71342
Calipatria State Prison
P.O. Box 5002
Calipatria, CA 92233

IAB Case No.: 0708660 Local Log No.: CAL-07-01247

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner V. O'Shaughnessy. All submitted documentation and supporting arguments of the parties have been considered.

I **APPELLANT'S ARGUMENT:** It is the appellant's position that he suffers from severe pain to his right knee and in his major joints. The appellant claims he was seen by an orthopedic specialist in May 2007, and was prescribed Tramadol for his pain. The appellant claims he never received his Tramadol. The appellant is requesting to know when the Tramadol was ordered and when he was supposed to receive it. The appellant further requests that he receive the Tramadol on time and that medical staff be counseled to prevent further incidents from occurring. He also requests a compensation of $5,000 for his pain and suffering.

II **SECOND LEVEL'S DECISION:** The reviewer found that the appellant was advised in the First Level of Review that Tramadol was ordered on May 23, 2007, but was never noted. The revised CDCR formulary of May 2007, had removed Tramadol. Delay occurred due to clarification of usage from Sacramento. Pharmacy staff stated that the Tramadol was ordered for the appellant on May 23, 2007 and again on August 2, 2007. The appellant's concern that he did not receive his medication in a timely manner was addressed with the Facility "B" medical staff. The appellant was seen on August 1, 2007 by his primary care physician and the medication was reordered for ninety days. The appellant is currently receiving his medication. Also, a referral was submitted to the Medical Authorization Review Committee for the appellant to be seen by an orthopedist, which is currently pending approval. The appellant is advised that in the future when medication needs to be refilled, he should notify the medical staff a week prior to the expiration date. If medication is not received, appellant is advised to notify medical staff as soon as possible. The appeal process does not allow for monetary compensation at any level. The appeal was granted in part at the Second Level of Review (SLR) on August 20, 2007.

III **DIRECTOR'S LEVEL DECISION:** Appeal is denied.

A. **FINDINGS:** The Director's Level of Review reviewed the appellant's appeal complaint, the SLR response and contacted the institution medical staff for further information. On November 1, 2007, E. Banaga-Bugarin, Medical Appeals Coordinator, reported that the appellant is currently receiving Tramadol and Tylenol. He was evaluated by an orthopedist on October 10, 2007; a follow-up was requested once the magnetic resonance imaging (MRI) study was completed. On October 29, 2007, the appellant had the MRI study. A follow-up with the orthopedist will be scheduled. All of the appellant's issues on appeal have been addressed by the institution. Monetary compensation is beyond the scope of the appeals process. No modification to the SLR is warranted.

The appellant has added new issues and requests to his appeal. The additional requested action is not addressed herein as it is not appropriate to expand the appeal beyond the initial problem and the initially requested action (CDC Form 602, Inmate/Parolee Appeal Form, Sections A and B).

B. **BASIS FOR THE DECISION:**
California Code of Regulations, Title 15, Section: 3350, 3354

C. **ORDER:** No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR. If dissatisfied, the appellant may forward this issue to the California Victims Compensation and Government Claims Board, (formerly known as the State Board of Control), Government Claims Unit, P.O. Box 3035, Sacramento, CA 95812-3035, for further review.

N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, CAL
Health Care Manager, CAL
Appeals Coordinator, CAL
Medical Appeals Analyst, CAL

ROBINSON, NEHEMIAH V. T. CATLETT, et al.

USDC - SOUTHERN DISTRICT CASE NO. 08-CV-00161-H (BLM)

EXHIBIT 3

RECEIVED CAL APPEALS SEP 14 2007

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

REASONABLE MODIFICATION OR ACCOMMODATION REQUEST

CDC 1824 (1/95)

INSTITUTION/PAROLE REGION:	LOG NUMBER:	CATEGORY:
CAL	A0701747	18. ADA

NOTE: THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES

In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act.

INMATE/PAROLEE'S NAME (PRINT)	CDC NUMBER	ASSIGNMENT	HOURS/WATCH	HOUSING
NEHEMIAH ROBINSON	J-71342	—	—	A-5-109L

In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disability shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination.

You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/institution/facility, for which you are otherwise qualified/eligible to participate.

Submit this completed form to the institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you.

If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review.

To proceed to SECOND LEVEL, attach this form to an Inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form.

Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form.

If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602.

MODIFICATION OR ACCOMMODATION REQUESTED

DESCRIPTION OF DISABILITY: "SIGNIFICANT COLLAGEN VASCULAR DISEASE/POST TRAUMATIC DEGENERATIVE ARTHRITIS IN MAJOR JOINTS; AND SUFFER FROM A "RIGHT-KNEE LATERAL MENISCAL TEAR"; AND HAVE BEEN SCHEDULED FOR SURGERY. I HAVE BEEN IN THIS CONDITION FOR YEARS, AND SAID CONDITIONS DEBILITATE AND IMPAIRS MY ABILITY TO FUNCTION NORMAL (AND HAVE A VALGUS DEFORMITY OF THE (R) KNEE).

WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY? PLEASE SEE ATTACHED EXHIBITS: RADIOLOGY REPORT DATED 9-25-03; CONSULTATION TREATMENT RECORD DATED 12-22-03; PHYSICIANS ORDER DATED 2-3-05, AND [redacted] 3-22-01; AND COMPREHENSIVE ACCOMMODATION CHRONOS (CDC 7410) DATED 2-14-07 AND 3-27-06.

DESCRIBE THE PROBLEM: I ASSERT THAT I APPEARED BEFORE ICC (COMMITTEE) ON 8-23-07, AND THE CHAIRMAN OF COMMITTEE SPECIFICALLY INSTRUCTED C/O WHIDMAN TO GIVE ME BACK MY WALKING CANE, BUT THIS HAVE NOT BEEN DONE. I WAS ONLY ISSUED A CDC 7362 AND WAS ASKED TO FILL IT OUT AND SUBMIT IT TO MEDICAL STAFF. I DID AS REQUESTED, STILL NO RESULTS. NOTE: I AM CURRENTLY IN AD/SEG, "ALLEGING" BATTERY ON INMATE W/ WEAPON. YET COMMITTEE WAS AND IS AWARE OF THE "ALLEGATIONS" MADE AGAINST ME. BUT THEY AND THE CHAIRMAN UNDERSTOOD THE NEED AND SERIOUSNESS OF MY CONDITIONS, THATS WHY MY CANE → WAS ALLOWED TO POSSESS.

WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED? 1) THAT I BE ISSUED MY OR A WALKING CANE, 2) THAT MY [redacted] COMPREHENSIVE ACCOMMODATION CHRONO DATED 3-27-06 BE RENEWED, AND 3) THAT A COMPREHENSIVE ACCOMMODATION CHRONO BE GENERATED FOR SINGLE-CELL STATUS DUE TO MY MEDICAL CONDITIONS (AUTHORITY: 1) FARMER V. BRENNAN, 511 U.S. AT 846 n.9; 2) PENNSYLVANIA DEPT. OF CORRECTIONS V. YESKEY, 524 U.S 206 (1998); 3) AND THE 8TH/14TH AMEND. OF THE U.S. CONSTITUTION; AND 4) SAUNDERS V. HORN, 960 F. Supp. 893 (E.D. Pa. 1997).

[signature]
INMATE/PAROLEE'S SIGNATURE

9-11-07
DATE SIGNED

CAL A0701747

RECEIVED CAL APPEALS SEP 14 2007

CAL

A0701747

DOCTORS HOSPITAL OF MANTECA
1205 East North Street
Manteca, CA 95336

J71342
DOB: 12/01/1967
Page 1

PT: ROBINSON, NEHEMIAH
MR#: 000239401 DHM
PT: 2
ADM: 09/25/2003 RM:
ACCT: 7474422 DIS:
000203390 SONG AUTH ID: 0439

cc: CORRECTIONAL FACILITY

RADIOLOGY REPORT

DATE OF SERVICE: 09/25/03.

CLINICAL DATA
Swollen knee in a patient with history of anterior cruciate ligament repair.

MRI OF THE RIGHT KNEE

COMPARISON
None.

TECHNIQUE
Scanner: General Electric 1.0T Signa MR imaging system.
Sequences: Four sequences consisting of T1 weighted and T2 weighted sagittal images, T1 weighted oblique coronal images for anterior cruciate ligament, and T1 weighted fat-suppressed axial and coronal images.

RECEIVED CSP-SAC HEALTH CARE MANAGER -6 OCT 03 12:58

FINDINGS
There has been anterior cruciate ligament reconstruction, with femoral and tibial compression screws in place. The reconstructed ligament demonstrates no evidence of recurrent tear. * Posterior cruciate ligament is intact. The medial meniscus is intact. The ferromagnetic artifacts from the compression screws partially degrade the image quality of the lateral meniscus. Its posterior horn has a foreshortened appearance and a small tear at its inner margin. In addition, there is probable bucket-handle tear of the posterior horn as well. The patellar cartilage surface is normal. Minimal chondromalacia of the medial knee compartment and moderate chondromalacia of the lateral compartment is present with rather poor visualization. There is a stage II osteochondritis desiccans (8 mm) involving the lateral femoral condyle. Collateral ligaments and patellar retinacula are intact. Patellar and quadriceps tendons are normal. Ganglion cyst or abnormal bursal distension is not seen.

IMPRESSION
1. Status post anterior cruciate ligament reconstruction without evidence of tear.

C: CORRECTIONAL FACILITY

CAL

A0701747

RECEIVED CAL APPEALS SEP 14 2007

DOCTORS HOSPITAL OF MANTECA
1205 East North Street
Manteca, CA 95336

J71342
DOB: 12/01/1967
Page 2

PT: ROBINSON, NEHEMIAH
MR#: 000239401 DHM
PT: 2 RM:
ADM: 09/25/2003 DIS:
ACCT: 7474422 AUTH ID: 0439
000203390 SONG

RADIOLOGY REPORT

2. Lateral meniscal tear.
3. Osteoarthritis and stage II osteochondritis desiccans of the lateral femoral condyle and mild bone marrow contusion of the lateral tibial plateau.

CS:m7
D. 09/25/2003 2:48 P
T. 09/25/2003 9:01 P
JOB #: 000203390
DOCUMENT # 1142491

CHULL SONG, M.D.

Not Authenticated until electronically signed.

Administratively Authenticated by
FRANK HARTWICK, M.D. 09/26/2003 13:33

CC: CORRECTIONAL FACILITY

Doctors Hospital Of Manteca
Tenet California
1205 E. North Street
P.O. Box 191
Manteca, CA 95336

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CAL
DOCTORS HOSPITAL MANTECA
A0701747 CDC J71342
ROBINSON, JEHEMIAH
FARR, MOTEZA
034Y M 12/01/69
FC 55 HSV 36
MR00026207?
B1 202L

IMPRINT PATIENT PLATE WITHIN THIS BOX

PROGRESS NOTES

AMBULATORY CARE CONSULTATION TREATMENT RECORD

CHIEF C/O: (R) knee pain

T P R B/P 120/82 HT 5'10' WT 170

MEDICATIONS: Tramadol, Prozac, Medaphine?

ALLERGIES: nkda

DATE LAST TETANUS

CONSULTATION/TREATMENT REPORT:

Pt. state had Acl reconstruction on early 2003 + felt better + recently when do exercise the knee swells up.

PE: [illegible] - motor intact (B) lower ext, [illegible] Muscle strenght 4/5 (B) lower, No lachman or drawer. No edema today.

MRI report: Acl intact, lateral meniscal tear.

Per op report. Lateral meniscus was debrided. At this time recommend cortison injection.

RECOMMENDATIONS / PLAN:

RECEIVED CSP-SAC HEALTH CARE MANAGER 23 DEC 03 09 55

Pt. refuses to have cortison injection and states will do stretching + strengthening exercises [illegible] ↑ mobility + ↓ edema.

C.I. Hooper DO

C.I. HOOPER, D.O.
PHYSICIAN & SURGEON
BOARD CERTIFIED
AOBFP

DIAGNOSIS: S/P (R) Acl repair

PROVIDER SIGNATURE

50165 (12/01)

RECEIVED CAL APPEALS JUN 27 2005
RECEIVED CAL APPEALS SEP 14 2007

A 0701[illegible] "C"

CAL B0601996

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION TO PHARMACY AFTER EACH ORDER IS SIGNED.

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
2/3/05			1) Medical Chrono – medically unassigned x 1 year.
			2) Consult – Pain specialty (re) w/ – back pain
			3) CBC, Chem Prof., Sed. rate, antibodies [illegible]
			4) Medical chrono – 128C – Mr. Robinson has fairly severe arthritis of many major joints and it is of medical necessity to be transferred to a Southern California prison with a warmer climate.
			5) Cane chrono – x 1 year.
			6) ANA LYMES TITER BY WESTERN BLOT – NOT ELISA.
			7) XRAY (R) 9th rib (re) ↑ uptake on the bone scan. – R/O CA, trauma, etc.

ALLERGIES: NKDA

INSTITUTION: CSP-SAC

ROOM/WING: B2 114C

8) Consult – rheumatology (re) diffuse [illegible] joint pain.

CDC NUMBER, NAME (LAST, FIRST, MI)
J71342
ROBINSON, NEHEMIAH
12/01/67

Confidential client information
See W & I Code, Sections 4514 and 5328

9) F/U visit ↑ [illegible]

PHYSICIAN'S ORDERS

CDC 7221 (2/00)
STATE OF CALIFORNIA
OSP 00 35617
DEPARTMENT OF CORRECTIONS

CAL A0701747

RECEIVED CAL APPEALS SEP 14 2007

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION TO PHARMACY AFTER EACH ORDER IS SIGNED.

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
3/19/01			1) Indocin 25 mg p.o. BID x 30 days.
CTP			2) F/U appt. Medical in 2 weeks to doctor.
F/U			3) lay-in x 1 week. given
Noted 3-19-01 [signature] 1400			
3/22/01			1) Chrono for double mattress due to medical condition (significant collagen-vascular disease)
Chrono			~~Elbow~~ x 1 year
			Chrono for 2 soft pillows from outside for medical condition as allowed by custody. x 1 year.
~~s~~upply			2) (L) knee brace. Medi Cal
CTP			3) ↑ Indocin to 50mg p.o. TID (x 30 days).
Noted 3/22/01 [signature] 1020			

ALLERGIES:

INSTITUTION: SAC

ROOM/WING: C1

CDC NUMBER, NAME (LAST, FIRST, MI): Robinson J 71342

Confidential client information See W & I Code, Sections 4514 and 5328

PHYSICIAN'S ORDERS

CDC 7221 (2/00)
STATE OF CALIFORNIA OSP 00 35617 DEPARTMENT OF CORRECTIONS

RECEIVED CAL APPEALS SEP 14 2007

STATE OF CALIFORNIA

CAL A 0701747

DEPARTMENT OF CORRECTIONS

COMPREHENSIVE ACCOMMODATION CHRONO

INSTRUCTIONS: A physician shall complete this form if an inmate requires an accommodation due to a medical condition. Circle P if the accommodation is to be permanent, or T if the accommodation is to be temporary. If the accommodation is temporary, write the date the accommodation expires on the line. A new form shall be generated when a change to an accommodation is required or upon renewal of a temporary accommodation. Any new form generated shall include previous accommodations, if they still apply. Chronos indicating permanent accommodations shall be reviewed annually. This form shall be honored as a permanent chrono at all institutions.

A. HOUSING

None		Bottom Bunk	P / T
Barrier Free/Wheelchair Access	P / T	Single Cell (See 128-C date:)	P / T
Ground Floor Cell	P / T	Permanent OHU / CTC (circle one)	P / T
Continuous Powered Generator	P / T	Other	P / T

B. MEDICAL EQUIPMENT/SUPPLIES

None		Wheelchair: (type)	P / T
Limb Prosthesis	P / T	Contact Lens(es) & Supplies	P / T
Brace	P / T	Hearing Aid	P / T
Crutches	P / T	Special Garment: (specify)	P / T
Cane: (type)	P / T	Rx. Glasses:	P / T
Walker	P / T	Cotton Bedding	P / T
Dressing/Catheter/Colostomy Supplies	P / T	Extra Mattress	P / T
Shoe: (specify) tennis shoes	P / (T) 3/22/07	Other	P / T
Dialysis Peritoneal (State purchased)	P / T		

C. OTHER

None		Therapeutic Diet: (specify)	P / T
Attendant to assist with meal access and other movement inside the institution.	P / T	Communication Assistance	P / T
Attendant will not feed or lift the inmate/patient or perform elements of personal hygiene.		Transport Vehicle with Lift	P / T
		Short Beard	P / T
Wheelchair Accessible Table	P / T	Other Waist restraints cuffs	P / (T) 3/22/07

D. PHYSICAL LIMITATIONS TO JOB ASSIGNMENTS

Based on the above, are there any physical limitations to job assignments? ☐ Yes ☐ No

If yes, specify:

INSTITUTION HEALTH RECORD	COMPLETED BY (PRINT NAME) [illegible]	TITLE MD
SIGNATURE [signature]	DATE 3/22/06	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH
HCM/CMO SIGNATURE [signature] CMO	DATE 3/27/06	Robinson, N J 71342 B1-133L
(CIRCLE ONE) (APPROVED) / DENIED	cc: RCR Housing Officer	

COMPREHENSIVE ACCOMMODATION CHRONO

RECEIVED CAL APPEALS SEP 14 2007

CAL A 07 01747

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS

COMPREHENSIVE ACCOMMODATION CHRONO

INSTRUCTIONS: A physician shall complete this form if an inmate requires an accommodation due to a medical condition. Circle P if the accommodation is to be permanent, or T if the accommodation is to be temporary. If the accommodation is temporary, write the date the accommodation expires on the line. A new form shall be generated when a change to an accommodation is required or upon renewal of a temporary accommodation. Any new form generated shall include previous accommodations, if they still apply. Chronos indicating permanent accommodations shall be reviewed annually. This form shall be honored as a permanent chrono at all institutions.

A. HOUSING

None

1. Barrier Free/Wheelchair Access P / T ______
2. Ground Floor Cell P / (T) 2/5/08
3. Continuous Powered Generator P / T ______
4. Bottom Bunk P / (T) 2/5/08
5. Single Cell (See 128-C date: ______) P / T ______
6. Permanent OHU / CTC (circle one) P / T ______
7. Other ______ P / T ______

B. MEDICAL EQUIPMENT/SUPPLIES

None

8. Limb Prosthesis P / T ______
9. Brace Neoprene knee brace P / (T) 2/5/08
10. Crutches P / T ______
11. Cane: (type) Straight P / (T) 2/5/08
12. Walker P / T ______
13. Dressing/Catheter/Colostomy Supplies P / T ______
14. Shoe: (specify) ______ P / T ______
15. Dialysis Peritoneal P / T ______
16. Wheelchair: (type) ______ P / T ______
17. Contact Lens(es) & Supplies P / T ______
18. Hearing Aid P / T ______
19. Special Garment: (specify) ______ P / T ______
20. Rx. Glasses: ______ P / T ______
21. Cotton Bedding P / T ______
22. Extra Mattress P / T ______
23. Other ______ P / T ______

C. OTHER

None

24. Attendant to assist with meal access and other movement inside the institution. P / T ______

Attendant will not feed or lift the inmate/patient or perform elements of personal hygiene.

25. Wheelchair Accessible Table P / T ______
26. Therapeutic Diet: (specify) ______ P / T ______
27. Communication Assistance P / T ______
28. Transport Vehicle with Lift P / T ______
29. Short Beard P / T ______
30. Other ______ P / T ______

D. PHYSICAL LIMITATIONS TO JOB ASSIGNMENTS

Based on the above, are there any physical limitations to job assignments? ☒ Yes ☐ No

If yes, specify: light duty no pushing/pulling & no lifting

INSTITUTION California	COMPLETED BY (PRINT NAME) Sun Ott	TITLE MD
SIGNATURE [signature] MD	DATE 2/5/08	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH Robinson Nehemiah J71342 B2-107L DOB 12-01-67
HCM/CMO SIGNATURE [signature]	DATE	
APPROVED (list the number of items approved) x4	Housing Assignment Correction	
DENIED (list the number of items denied)		

COMPREHENSIVE ACCOMMODATION CHRONO

RECORD COPY

SMTA

Distribution:

ROBINSON, NEHEMIAH V. T. CATLETT, et al

USDC- SOUTHERN DISTRICT CASE NO. 08-CV-00161-H (BLM)

EXHIBIT 4

RECEIVED CAL APPEALS SEP 17 2007

RECEIVED CAL APPEALS OCT 24 2007

INMATE/PAROLEE APPEAL FORM
CDC 602 (12/87)

Location: Institution/Parole Region CAL
1. ______
2. ______

Log No. B 0701769
1. ______
2. ______

Category (11) Per CDC Review of Staff Complaint

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
NEHEMIAH ROBINSON	J-71342	———	A-5-109L

A. Describe Problem: PETITIONER HEREBY MOVES TO FILE A 1ST AMEND. CIVIL RIGHTS CITIZEN COMPLAINT § 832.5 P.C. AGAINST " T.A. CATLETT, CORRECTIONAL SERGENT, FACILITY B, CALIPATRIA STATE PRISON; FOR PERJURY AND FRAUD IN FALSIFYING AND FABRICATING FALSE ALLEGATIONS, ALLEGING THAT "PETITIONER WAS OBSERVED ... STRIKING THE OTHER INMATE NUMEROUS TIMES WITH THE CANE"; ON FRIDAY, AUGUST 17, 2007, AT APPROXIMATELY 11:29 HOURS; AND SGT. CATLETT REFER TO THE CRIME / INCIDENT REPORT, LOG # CAL-FBY-07-08-0240. NO EVIDENCE OF SUCH FALSELY SUBMITTED STATEMENTS WERE NEVER CORROBORATED NOR SUSTAINED. I HEREBY INVOKE MY FEDERALLY SECURED AND ESTABLISHED RIGHT TO FILE PERJURY AND FRAUD CHARGES →

If you need more space, attach one additional sheet.

B. Action Requested: WHEREFORE PETITIONER RESPECTFULLY REQUEST 1) THAT AUTHORIZED STAFF INSPECT AND CORRECT THE CDC 128-B DATED 8-17-07 GENERATED BY SGT. CATLETT, 2) SGT. CATLETT BE COUNSELED SO THAT THIS ACT DONT REPEAT ITSELF, AND 3) COMPENSATED IN THE AMOUNT OF $5000.00 FOR LIBEL AND SLANDER AND PAIN AND SUFFERING. I EXTEND MY GRATITUDE IN ADVANCE.

Inmate/Parolee Signature: [signature] Date Submitted: 9-12-07

C. INFORMAL LEVEL (Date Received: ______)

Staff Response: ______

Staff Signature: ______ Date Returned to Inmate: ______

RECEIVED NOV 30 2007 INMATE APPEALS BRANCH

CSP-CAL BYPASS

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: ______ Date Submitted: ______

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: CAL B 0701769

CONT. OF A:
(DESCRIBE PROBLEM)

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CAL B0701769

RECEIVED CAL APPEALS OCT 24 2007

AGAINST "SGT. CATLETT" FOR VIOLATIONS OF PENAL CODES SECTS. § 115, 118 (a), 135, 132 ASSERTING IT IS A CRIME TO SUBMITT ANY TYPE OF FALSE OR FABRICATED STATEMENT SUBMITTED ON A GOVERNMENT FORM TO A STATE AGENCY KNOWING SUCH INFORMATION TO BE FRAUDULENT, FALSE, OR FABRICATED AGAINST ANY PERSON OR PRISONER, INTENDED SPECIFICALLY FOR PUNISHMENT WITH OUT DUE PROCESS OF THE LAW UNDER THE 14TH AMEND. PROHIBITIONS OF THE DUE PROCESS CLAUSE TO THE 14TH AMEND. OF THE U.S. CONSTITUTION. PETITIONER MOVES TO CHARGE "SGT. CATLETT", FOR PENAL VIOLATIONS OF CRIMINAL LAW PROCEDURES P.C'S 115(a), 118, 132, 135, WILLFULLY AND KNOWINGLY THAT SUCH MISCONDUCT AGAINST ANY PERSONS, CITIZENS, OR PRISONERS IS AN ACT UNAUTHORIZED BY CCR TITLE 15 AND BY LAW. PETITIONER, IS EXPERIENCING PAIN AND SUFFERING, AND HAVE BEEN DENIED HIS OR A WALKING CANE, BASED UPON THE CDC 128-B (GENERAL CHRONO) GENERATED BY "SGT. CATLETT" FABRICATED, FALSE-ALLEGATIONS THAT WAS POLICE CREATED FABRICATION TO JUSTIFY THEIR UNLAWFUL ACTIONS OF NOT ALLOWING PETITIONER TO POSSESS HIS OR A WALKING CANE, KNOWING THAT PETITIONER SUFFER FROM A DISABILITY THAT DEBILITATE AND IMPAIR HIS ABILITY TO FUNCTION NORMAL, TO WIT, "RIGHT KNEE - LATERAL MENISCAL TEAR," AND PENDING SURGERY." CONSTITUTED CRUEL AND UNUSUAL PUNISHMENT. NO WHERE DOES IT STATE, BY EITHER REPORTING EMPLOYEE THAT ALLEGELY OBSERVED THE INCIDENT ON FRIDAY, AUGUST 17, 2007, AT APPROXIMATELY 11:29 HOURS, THAT "THEY OBSERVED" PETITIONER STRIKING THE OTHER INMATE NUMEROUS TIMES WITH THE CANE" (AS REFERENCED IN CRIME / INCIDENT REPORT, LOG # CAL-FBY-07-08-0240.) ATTACHED AS EXHIBIT (SEE ATTACHED CDC 128-B) DATED 8-17-07

AUTHORITY

1) CCR TITLE 15 § 3291. (a), 2) § 3391. (a), 3) AND § 3004. (a) (b) (c), AND 4) § 3450-(a) (1) (2), 5) § 3413. (a) (A) (1) (2) (C), 6) AND 5. U.S.C § 552a (g)(4).

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STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

RECEIVED CAL APPEALS OCT 24 2007

NAME and NUMBER

CAL B0701769

CDC 128-B

ROBINSON -J-71342

On Friday, August 17, 2007, at approximately 11:29 hours Inmate ROBINSON, J-71342, was involved in an incident of Battery on an Inmate with a Weapon, as referenced in Crime/Incident Report, Log #CAL-FBY-07-08-0240. During this incident Inmate ROBINSON was observed utilizing his cane to assault another inmate, striking the other inmate numerous times with the cane. The use of Oleoresin Capsicum spray was necessary in order to quell Inmate ROBINSON's aggressive use of his cane.. The cane was subsequently placed into evidence, and staff has determined that continued possession of the cane by Inmate ROBINSON would pose a grievous threat to the safety and security of staff, inmates, and the institution.

Original: Central File
cc: Program Lieutenant
CCI
Housing Unit
Security and Investigations Unit
Inmate

T. A. CATLETT, Correctional Sergeant
Facility B
Calipatria State Prison

Dated: 08/17/07 (INFORMATIONAL – PROPERTY CONFISCATION) GENERAL CHRONO

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STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CRIME / INCIDENT REPORT
PART A - COVER SHEET

CDCR 837-A (REV. 10/06) (1)

DV-1.5.2

Page 1 of 15	INCIDENT LOG NUMBER	INCIDENT DATE	INCIDENT TIME
	CAL-FBY-07-08-0240	08/17/2007	11:29

INSTITUTION	FACILITY	FACILITY LEVEL	INCIDENT SITE	LOCATION	PROGRAM	AD/SEG YARD	USE OF FORCE:
CAL	FBY - B yard #1	☐ I ☐ II ☐ RC ☐ III ☑ IV	FACILITY B	YARD #1	GP	N/A	Yes

SPECIFIC CRIME / INCIDENT	☑ CCR ☐ PC ☐ N/A NUMBER / SUBSECTION
Battery on an Inmate With a Weapon	3005-c1 Force or Violence

D.A. REFERRAL ELIGIBLE	CRISIS RESPONSE TEAM ACTIVATED	MUTUAL AID	PIO/AA NOTIFIED
☑ Yes ☐ No	☐ Yes ☑ No	☐ Yes ☑ No	☐ Yes ☑ No

RELATED INFORMATION (CHECK ALL THAT APPLY OR N/A)

DEATH AND CAUSE OF DEATH	ASSAULT / BATTERY	TYPE OF ASSAULT / BATTERY
☑ N/A	☐ N/A 1. INMATE	☐ N/A 1. BATTERY ON INMATE Other Desc:

SERIOUS INJURY	INMATE WEAPONS	TYPE OF WEAPON / SHOTS FIRED / FORCE
☑ N/A	☐ N/A 1. Other Not Listed - Other Description: CANE	☐ N/A 1. OC - MK-9 #Warning: 0 #Effect: 0 #Chemical: 1
ESCAPES		
☑ N/A		

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AUG 3 1 2007

Associate Warden
Central Operations

CONTROLLED SUBSTANCE	WEIGHT/ In Grams	PROGRAM STATUS	EXCEPTIONAL ACTIVITY
☑ N/A		☑ N/A	☑ N/A
			EXTRACTION: ☑ N/A

8/28/07

BRIEF DESCRIPTION OF INCIDENT (ONE OR TWO SENTENCES)

On August 17, 2007 at approximately 1129 hours, Inmate Robinson, J71342, B2-107L, committed "Battery on an Inmate with Weapon" on Inmate Clark, H76477, B4-242U, resulting in use of force.

COMPLETE SYNOPSIS / SUMMARY ON PART A1

NAME OF REPORTING STAFF (PRINT/TYPE)	TITLE	ID#	BADGE #
R JOHNSON	CORRECTIONAL LIEUTENANT	1761357	53511
SIGNATURE OF REPORTING STAFF	PHONE EXT. INCIDENT SITE		DATE
	6205		8/17/2007
NAME OF WARDEN / AOD (PRINT/ SIGN)			

STATE OF CALFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CRIME / INCIDENT REPORT
PART A1 - SUPPLEMENT

CDCR 837-A1 (REV. 10/06)

DV-1.5.2

Page 3 of ~~8~~ 15		INCIDENT LOG NUMBER CAL-FBY-07-08-0240	
INSTITUTION CAL	FACILITY FBY - B YARD #1	INCIDENT DATE 08/17/2007	INCIDENT TIME 11:29

TYPE OF INFORMATION:

☑ SYNOPSIS/SUMMARY OF INCIDENT ☐ SUPPLEMENTAL INFORMATION ☐ AMENDED INFORMATION ☐ CLOSURE REPORT

the head with a cane and not as a result of any force by staff, therefore a videotaped interview is unnecessary.

This incident may be referred to the Imperial County District Attorneys office for possible felony prosecution.

Inmate Clark was deemed the victim of this assault, a CDC128 was generated identifying Inmate Clark and Inmate Robinson as enemies.

Inmate Clark stated that he has no housing concerns and requested to remain on B facility, a CDC128B informational chrono was generated and signed by Inmate Clark indicating this.

Inmate Robinson was medically cleared and rehoused in Administrative Segregation, pending review by Institutional Classification Committee for program and housing needs. 1140

None of the involved inmates are participants in the Mental Health Services Delivery system, Disability Placement Program, Developmental Disability Placement program at any level of care.

None of the involved inmates made any allegations of excessive or unnecessary force.

All involved staff have been canvassed and advised to submit reports.

There was no damage to state or personal property as a result of this incident.

All appropriate administrative staff have been notified of this incident.

☐ CHECK IF NARRATIVE IS CONTINUED ON ADDITIONAL A1

NAME OF REPORTING STAFF (PRINT/TYPE)	TITLE:	ID#	BADGE #
R JOHNSON	CORRECTIONAL LIEUTENANT	1761357	53511
SIGNATURE OF REPORTING STAFF		PHONE EXT. INCIDENT SITE 6205	DATE 8/17/2007

CAL B07017769

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CRIME/INCIDENT REPORT

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PART B2 - STAFF

CDCR 837-B2 (REV. 10/06)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

DV-1.5.2

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INSTITUTION	FACILITY	INCIDENT LOG NUMBER
CAL	FBY - B YARD #1	CAL-FBY-07-08-0240

STAFF (ENTIRE SHEET)

NAME: LAST	FIRST	MI	TITLE	SEX	ETHNICITY	RDO'S
NEAL	C		CORRECTIONAL SERGEANT	M	BLA	

PARTICIPANT	BADGE #	ID #	POST ASSIGN #	POSITION
PRIMARY	64571	17602931	120153	B YARD SERGEANT

☑ N/A DESCRIPTION OF INJURIES, LOCATION AND CAUSE:

☑ N/A NAME/ LOCATION OF HOSP/ FACILITY

Reason For Death

☑ N/A ☐ TREATED AND RELEASED ☐ REFUSED TREATMENT ☐ HOSPITALIZED ☐ DECEASED DATE

Is There ASCA Serious Injury ◉ No ○ Yes

USED FORCE ☑ Yes ☐ No

TYPE OF FORCE: OC

PROCESSED EVIDENCE ☑ Yes ☐ No

NAME: LAST	FIRST	MI	TITLE	SEX	ETHNICITY	RDO'S
DAVILA	N		CORRECTIONAL OFFICER	M	HIS	

PARTICIPANT	BADGE #	ID #	POST ASSIGN #	POSITION
RESPONDER	69156	1763708	B REC OFFICER	620624

☑ N/A DESCRIPTION OF INJURIES, LOCATION AND CAUSE:

☑ N/A NAME/ LOCATION OF HOSP/ FACILITY

Reason For Death

☑ N/A ☐ TREATED AND RELEASED ☐ REFUSED TREATMENT ☐ HOSPITALIZED ☐ DECEASED DATE

Is There ASCA Serious Injury ◉ No ○ Yes

USED FORCE ☐ Yes ☑ No

TYPE OF FORCE:

PROCESSED EVIDENCE ☐ Yes ☑ No

NAME: LAST	FIRST	MI	TITLE	SEX	ETHNICITY	RDO'S
RIVAS	J		CORRECTIONAL OFFICER	M	HIS	S/S

PARTICIPANT	BADGE #	ID #	POST ASSIGN #	POSITION
RESPONDER	45867	176385	620636	B YARD GUNNER

☑ N/A DESCRIPTION OF INJURIES, LOCATION AND CAUSE:

☑ N/A NAME/ LOCATION OF HOSP/ FACILITY

Reason For Death

☑ N/A ☐ TREATED AND RELEASED ☐ REFUSED TREATMENT ☐ HOSPITALIZED ☐ DECEASED DATE

Is There ASCA Serious Injury ◉ No ○ Yes

USED FORCE ☐ Yes ☑ No

TYPE OF FORCE:

PROCESSED EVIDENCE ☐ Yes ☑ No

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STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CRIME / INCIDENT REPORT
PART C - STAFF REPORT

CDCR 837-C (REV. 10/06)

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INCIDENT LOG NUMBER: CAL FBY 07 08 0240

NAME: LAST	FIRST	MI	INCIDENT DATE	INCIDENT TIME
NEAL	C.		8-17-07	1129 HRS

POST #	POSITION	YEARS OF SERVICE	DATE OF REPORT	LOCATION OF INCIDENT
120153	B-YARD SGT.	6 YR. 0 MO.	8-17-07	B-YARD #1 HAND BALL COURT

RDO's	DUTY HOURS	DESCRIPTION OF CRIME / INCIDENT	CCR SECTION / RULE
	0800-1600	BATTERY ON I/M W/WPN N/S/J	3005 (C)

YOUR ROLE: [X] PRIMARY [ ] RESPONDER [ ] WITNESS [ ] VICTIM [ ] CAMERA [ ] SCRIBE

WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER): NEAL, C.

INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESSES):
- CLARK H76477 CELL 242 B-4 (V)
- ROBINSON J71342 CELL B-2 107L (S)

FORCE USED BY YOU: [ ] WEAPON [ ] PHYSICAL [X] CHEMICAL [ ] NONE

FORCE USED BY YOU - TYPE OF WEAPON / SHOTS FIRED / FORCE

[X] N/A

FORCE: [ ] EXPANDABLE BATON [ ] PHYSICAL FORCE [ ] X10

WEAPON: [ ] MINI 14 [ ] .38 CAL [ ] 9MM [ ] SHOTGUN — WARNING / EFFECT:

LAUNCHER: [ ] 37MM [ ] L8 [ ] 40MM [ ] 40 MM MULTI [ ] HFWRS — EFFECT#:

CHEMICAL TYPE: [ ] N/A [X] OC MK-9X [ ] CN [ ] CS [ ] OTHER

FORCE OBSERVED BY YOU: [ ] WEAPON [ ] PHYSICAL [ ] CHEMICAL [X] NONE

EVIDENCE DESCRIPTION: [ ] N/A — STATE ISSUED CRANE

EVIDENCE DESCRIPTION: [ ] N/A — Placed in locker #11 in Control

BIO HAZARD: [ ] Yes [X] No

PPE: [ ] Yes [X] No

EVIDENCE COLLECTED BY YOU: [X] Yes [ ] No

DESCRIPTION OF INJURY: [X] N/A

LOCATION TREATED (HOSPITAL / CLINIC): [X] N/A

FLUID EXPOSURE: [ ] BODILY [ ] UNKNOWN [ ] OTHER [X] N/A

SCIF 3301/3067 COMPLETED: [ ] Yes [X] No

REPORTING STAFF INJURED: [ ] Yes [X] No

NARRATIVE:

ON FRIDAY AUGUST 17,2007 AT APPROXIMATLEY 1129 HRS. WHILE PERFORMING MY DUTIES AS B-YARD SERGEANT B-YARD #1 on THE HANDBALL COURT WHEN I ARRIVED TO THE SCENE I SAW TWO INMATES STANDING INFRONT OF EACH OTHER WITH I/M ROBINSON T-71342 B-2 107L HOLDING A CANE IN HIS RIGHT HAND ATTEMPTING TO STRIKE I/M CLARK H-76477 B-4 242. I THEN ORDERED BOTH COMBATANTS TO GET DOWN WITH NEGATIVE RESULTS. I/M ROBINSON TRIED TO SWING AT I/M CLARK AGAIN. AT THIS TIME UTILIZING MY STATE ISSUED MK-9X OC SPRAY I DESPENSED (1) ONE CONTINUOS BURST OF SPRAY TO THE FACIAL AREA OF I/M ROBINSON AFTER WHICH BOTH I/M'S COMPLIED AND ASSUMED A PRONE POSITION ON THE GROUND. THE CANE WAS KEPT IN MY POSSESSION UNTIL IT WAS PLACED IN EVIDENCE LOCKER #11 IN CENTRAL CONTROL

[ ] CHECK IF NARRATIVE IS CONTINUED ON PART C1

SIGNATURE OF REPORTING STAFF	TITLE	BADGE #	ID#	DATE
[signature]	B-YARD SGT	64537	1760931	8-17-07

NAME AND TITLE OF REVIEWER (PRINT/ SIGNATURE)	DATE RECEIVED	APPROVED	CLARIFICATION NEEDED	DATE
[signature]		[X] Yes [ ] No	[ ] Yes [X] No	

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DEPARTMENT OF CORRECTIONS AND REHABILITATION

CRIME / INCIDENT REPORT
PART C2- REVIEW NOTICE

CDCR 837-C2 (Rev. 07/05)

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REPORTING EMPLOYEE NAME (*PRINT/TYPE*)			INCIDENT LOG NUMBER	DATE OF INCIDENT
LAST: DAVILA	FIRST: M.	MI:	CAL-FBY-07-08-0240	08/17/07

Your report concerning the above referenced incident has been reviewed and the following information is required:

- [X] Prepare a CDCR 837-C1 Supplement report clarifying the issues listed below:
- [ ] Prepare a CDCR 837-C1 Supplement report providing additional information regarding the issues listed below:
- [ ] Prepare a CDCR 837-A1 Supplement report clarifying the issues listed below:
- [ ] Prepare a CDCR 837-A1 Supplement report to ammend the information regarding the issues listed below:

DUE BY: 08/22/07 RETURN TO: T. A. CATLETT, Correctional Sergeant

Did you conduct a search of the Holding Cell prior to placing Inmate Clark, H76477 inside?

- [ ] CHECK IF CONTINUED ON ADDITIONAL PART C2

NAME OF REVIEWER (PRINT)	TITLE	SIGNATURE	DATE
T. A. CATLETT	CORR SGT	[signature]	8/24/07

Distribution: Original: Incident Package Canary: Reporting Employee Pink: Reviewing Supervisor

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DEPARTMENT OF CORRECTIONS AND REHABILITATION

CRIME / INCIDENT REPORT
PART C - STAFF REPORT

CDCR 837-C (REV. 10/06)

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INCIDENT LOG NUMBER: CAL FBY 07 08 0240

NAME: LAST	FIRST	MI	INCIDENT DATE	INCIDENT TIME
Rivas	J	H	8-17-07	1129

POST #	POSITION	YEARS OF SERVICE	DATE OF REPORT	LOCATION OF INCIDENT
620634	B observation	15 YR. 10 MO.	8-17-07	yd #1 handball court

RDO's	DUTY HOURS	DESCRIPTION OF CRIME / INCIDENT	CCR SECTION / RULE
SS	06-14	Battery on an Inmate w/weapon	3005 c

YOUR ROLE	WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER)		INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESSES)	
☒ PRIMARY			Robinson	J71342
☐ RESPONDER			Clark	H76477
☐ WITNESS				
☐ VICTIM				
☐ CAMERA				
☐ SCRIBE				

FORCE USED BY YOU: ☐ WEAPON ☐ PHYSICAL ☐ CHEMICAL ☒ NONE

FORCE OBSERVED BY YOU: ☐ WEAPON ☐ PHYSICAL ☐ CHEMICAL ☒ NONE

FORCE USED BY YOU - TYPE OF WEAPON / SHOTS FIRED / FORCE

☐ N/A

FORCE: ☐ EXPANDABLE BATON ☐ PHYSICAL FORCE ☐ X10

WEAPON:	WARNING	EFFECT:	LAUNCHER:	EFFECT#:
☐ MINI 14			☐ 37MM	
☐ .38 CAL			☐ L8	
☐ 9MM			☐ 40MM	
☐ SHOTGUN			☐ 40 MM MULTI	
			☐ HFWRS	

CHEMICAL/ TYPE: ☒ N/A ☐ OC ☐ CN ☐ CS ☐ OTHER

EVIDENCE DESCRIPTION	EVIDENCE DESCRIPTION	BIO HAZARD	PPE
☒ N/A	☒ N/A	☐ Yes ☒ No	☐ Yes ☒ No

EVIDENCE COLLECTED BY: ☐ Yes ☒ No

REPORTING STAFF INJURED: ☐ Yes ☒ No

DESCRIPTION OF INJURY	LOCATION TREATED (HOSPITAL / CLINIC)	FLUID EXPOSURE	SCIF 3301/3067 COMPLETED
☒ N/A	☒ N/A	☐ BODILY ☐ UNKNOWN ☐ OTHER ☒ N/A	☐ Yes ☒ No

NARRATIVE:

On Friday 8-17-07 at approxmatly 1129 hours while performing my duty as B observation booth officer, I observed two (2) inmates later identified by responding yard staff as: Robinson CDC# J71342 B2 207L and Clark # H76477 B4 242U. Both inmates were facing each other on the yard #1 handball court (Looking east from observation) Inmate Robinson had a cane in his hands and was swinging it at inmate Clark who had both his hands up clenched into fists, both inmates were trying to strike each other. I then verbally ordered the yard via the pa system all inmates complied with the exception of the combatants, I advised yard staff of the disturbance on the yard #1 hand ball court. I then chambered one (1) round from my state issue mini 14 serial 185-59072 and directed my point of aim at inmate Robinson's left side torso (Robin was wielding the cane) at this time responding yard staff arrived. I then placed my weapon on safe, and directed my weapon's point of aim

☐ CHECK IF NARRATIVE IS CONTINUED ON PART C1

SIGNATURE OF REPORTING STAFF	TITLE	BADGE #	ID#	DATE
[signature]	C/O	45867	176385	8-17-07

NAME AND TITLE OF REVIEWER (PRINT/ SIGNATURE)	DATE RECEIVED	APPROVED	CLARIFICATION NEEDED	DATE
[signature]		☒ Yes ☐ No	☐ Yes ☒ No	8/17/07

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CRIME / INCIDENT REPORT
PART C - STAFF REPORT

CDCR 837-C (REV. 10/06)

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INCIDENT LOG NUMBER: CAL FBY07-08-0240

NAME: LAST	FIRST	MI	INCIDENT DATE	INCIDENT TIME
TORRENT	J.	R.	8-17-07	1129

POST #	POSITION	YEARS OF SERVICE	DATE OF REPORT	LOCATION OF INCIDENT
	B-5 FLOOR	5 YR. 5 MO.	8-17-07	B-YRD #1 HANDBALL COURT.

RDO's	DUTY HOURS	DESCRIPTION OF CRIME / INCIDENT	CCR SECTION / RULE
T/W	06-1400	BATTERY ON I/M W/WPN N/S/J	3005 (C)

YOUR ROLE	WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER)	INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESSES)	
☐ PRIMARY	SGT NIER	ROBINSON	J-71342 B-2 107 L
☑ RESPONDER		CLARK	H-76477 B-4 242
☐ WITNESS			
☐ VICTIM			
☐ CAMERA			
☐ SCRIBE			

FORCE USED BY YOU: ☐ WEAPON ☐ PHYSICAL ☐ CHEMICAL ☑ NONE

FORCE USED BY YOU - TYPE OF WEAPON / SHOTS FIRED / FORCE

☒ N/A

FORCE: ☐ EXPANDABLE BATON ☐ PHYSICAL FORCE ☐ X10

WEAPON: ☐ MINI 14 ☐ .38 CAL ☐ 9MM ☐ SHOTGUN — WARNING ____ EFFECT: ____

LAUNCHER: ☐ 37MM ☐ L8 ☐ 40MM ☐ 40 MM MULTI ☐ HFWRS — EFFECT#: ____

CHEMICAL TYPE: ☑ N/A ☐ OC ☐ CN ☐ CS ☐ OTHER ____

FORCE OBSERVED BY YOU: ☐ WEAPON ☐ PHYSICAL ☐ CHEMICAL ☑ NONE

EVIDENCE DESCRIPTION: ☑ N/A

EVIDENCE DESCRIPTION: ☑ N/A

BIO HAZARD: ☐ Yes ☑ No

PPE: ☐ Yes ☑ No

EVIDENCE COLLECTED BY: ☐ Yes ☑ No

DESCRIPTION OF INJURY: ☑ N/A

LOCATION TREATED (HOSPITAL / CLINIC): ☑ N/A

FLUID EXPOSURE: ☐ BODILY ☑ N/A ☐ UNKNOWN ☐ OTHER ____

SCIF 3301/3067 COMPLETED: ☐ Yes ☑ No

REPORTING STAFF INJURED: ☐ Yes ☑ No

NARRATIVE:

ON FRIDAY AUGUST 17, 2007 AT APPROXIMATELY 1129 HOURS WHILE PERFORMING MY DUTIES AS BRAVO 5 FLOOR #1 I RESPOND(E) TO AN ALARM ON B-YARD, YARD #1 HANDBALL COURT. INMATE ROBINSON J-71342 B-2 107 AND I/M CLARK H-7677 B-4 242 WHILE IN THE PRONE POSITION ON THE GROUND (A) SGT NIER ORDERED ME TO PUT I/M ROBINSON IN MECHANICAL RESTRAINTS I THEN ESCORTED ROBINSON TO YARD #1 SHOWER TO DECONTAMINATE WITH COPIOUS AMOUNTS OF COOL RUNNING WATER I THEN ESCORTED I/M ROBINSON TO BRAVO PROGRAM OFFICE AND PLACED HIM IN HOLDING CELL #1 WERE I CONDUCTED AN UNCLOTHED BODY SEARCH WITH NEGATIVE RESULTS I ALSO CONDUCTED A CLOTHED BODY SEARCH PRIOR TO ESCORT WITH NEGATIVE RESULTS.

☐ CHECK IF NARRATIVE IS CONTINUED ON PART C1

SIGNATURE OF REPORTING STAFF	TITLE	BADGE #	ID#	DATE
J. Torrent	CORRECTIONS OFFICER	64585	1760283	8-17-07

NAME AND TITLE OF REVIEWER (PRINT/ SIGNATURE)	DATE RECEIVED	APPROVED	CLARIFICATION NEEDED	DATE
		☑ Yes ☐ No	☐ Yes ☑ No	

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CRIME / INCIDENT REPORT
PART C1- SUPPLEMENT

CDCR 837-C1 (Rev. 07/05)

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INCIDENT LOG NUMBER: CAL-FBY-07-08-0240

NAME: LAST	FIRST	MI
TORRENT	J.	

TYPE OF INFORMATION:

☐ CONTINUATION OF REPORT ☒ CLARIFICATION OF REPORT ☐ ADDITIONAL INFORMATION

NARRATIVE:

I CONDUCTED A SEARCH OF HOLDING CELL #1 WITH NEG. RESULTS.

☐ CHECK IF NARRATIVE IS CONTINUED ON ADDITIONAL C1

SIGNATURE OF REPORTING STAFF	TITLE	BADGE #	ID #	DATE
[signature]	C/O	64585	17662893	8-24-07

NAME AND TITLE OF REVIEWER (PRINT / SIGNATURE)	DATE RECEIVED	APPROVED	CLARIFICATION NEEDED	DATE
[signature]	8/24/07	☒ YES ☐ NO	☐ YES ☒ NO	8/24/07

Distribution: Original: Incident Package Copy: Reporting Employee Copy: Reviewing Supervisor

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CAL B0701769

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STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

MEDICAL REPORT OF INJURY OR UNUSUAL OCCURRENCE

NAME OF INSTITUTION	FACILITY/UNIT	REASON FOR REPORT (circle)	DATE
CAL SP	Bravo	INJURY / ON THE JOB INJURY / USE OF FORCE / UNUSUAL OCCURRENCE / (PRE AD/SEG ADMISSION)	8/17/07

THIS SECTION FOR INMATE ONLY	NAME LAST: Robinson	FIRST: N	CDC NUMBER: J-71342	HOUSING LOC.: B2-107	NEW HOUSING LOC.
THIS SECTION FOR STAFF ONLY	NAME LAST	FIRST	BADGE #	RANK/CLASS	ASSIGNMENT/RDOs
THIS SECTION FOR VISITOR ONLY	NAME LAST	FIRST / MIDDLE		DOB	OCCUPATION
	HOME ADDRESS	CITY	STATE	ZIP	HOME PHONE

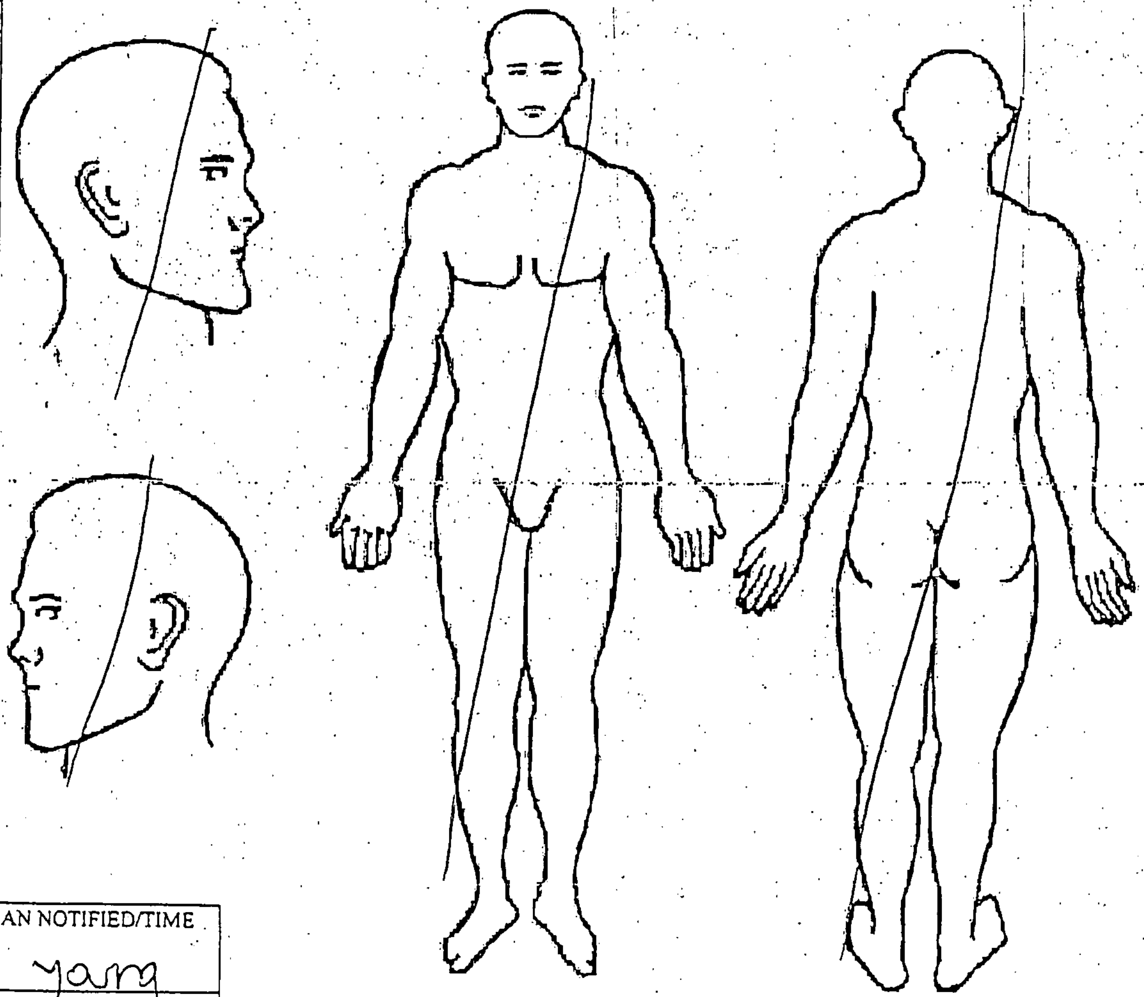
PLACE OF OCCURRENCE	DATE/TIME OF OCCURRENCE	NAME OF WITNESS(ES)
Yard B	8/17/07 1130	

TIME NOTIFIED	TIME SEEN	ESCORTED BY	MODE OF ARRIVAL (circle)	AGE	RACE	SEX
1135	1220	CO	(AMBULATORY) / LITTER / WHEELCHAIR / ON SITE	39	BLK	Mal

BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE

Ø comments.

INJURIES FOUND? YES / NO	
Abrasion/Scratch	1
Active Bleeding	2
Broken Bone	3
Bruise/Discolored Area	4
Burn	5
Dislocation	6
Dried Blood	7
Fresh Tattoo	8
Cut/Laceration/Slash	9
O.C. Spray Area	10
Pain	11
Protrusion	12
Puncture	13
Reddened Area	14
Skin Flap	15
Swollen Area	16
Other	17
	18
	19



O.C. SPRAY EXPOSURE?	YES / NO
DECONTAMINATED?	YES / NO
Self-decontamination instructions given?	YES / NO
Refused decontamination?	YES / NO
Q 15 min. checks	
Staff issued exposure packet?	YES / NO

RN NOTIFIED/TIME	PHYSICIAN NOTIFIED/TIME
Salgado	PA Yang

TIME/DISPOSITION: 1230 Release Custody

REPORT COMPLETED BY/TITLE (PRINT AND SIGN)	BADGE #	RDOs
[signature] LVN	4383	W T

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CAL B0701769

SO4 ED RECORDS

STATE OF CALIFORNIA RECEIVED CAL APPEALS OCT 24 2007

DEPARTMENT OF CORRECTIONS

RULES VIOLATION REPORT

CDC NUMBER	INMATE'S NAME	RELEASE/BOARD DATE	INST.	HOUSING NO.	LOG NO.
J-71342	ROBINSON (BLK)		CAL-IV	B2-107L	08-07-020

VIOLATED RULE NO(S).	SPECIFIC ACTS	LOCATION	DATE	TIME
CCR 3005 (c)	BATTERY ON AN INMATE W/WEAPON	FAC. B YARD #1	08-17-07	1129 HRS.

CIRCUMSTANCES

On Friday, August 17, 2007, at approximately 1129 hours, while performing my duties as "B" Observation booth Officer, I observed Two (2) inmates later identified by responding yard staff as Inmate ROBINSON, J-71342, B2-107L, and Inmate CLARK, H-75477, B4-242L. Both inmates were facing each other on the yard #1 Handball Court looking east from observation. Inmate ROBINSON had a cane in his hands and was swinging it at Inmate CLARK who had both his hands up clenched into fists. "Both inmates were trying to strike each other." I then verbally ordered the yard via the P.A. system all inmates complied with the exception of the combatants. I advised yard staff of the disturbance on the yard #1 handball court. Inmate ROBINSON was wielding the cane. At this time responding staff arrived and placed both inmates in restraints without further incident. Upon Medical evaluation by medical staff it was determined that Inmate CLARK received a laceration with swelling to the left side of his head, consistent with being bludgeoned with the cane.

Inmate ROBINSON is not a participant of the Mental Health Services Delivery System (M.H.S.D.S.) Care.
Inmate ROBINSON is aware of this report.

REPORTING EMPLOYEE (Typed Name and Signature)	DATE	ASSIGNMENT	RDO'S
▶ J. RIVAS, Correctional Officer [signature]	[illegible]	"B" Observation	S/S

REVIEWING SUPERVISOR'S SIGNATURE	DATE	☐ INMATE SEGREGATED PENDING HEARING
▶ T. CARLETT, Correctional Sergeant [signature]	8/24/07	DATE 08-17-07 LOC. A5-125L

CLASSIFIED	OFFENSE DIVISION:	DATE	CLASSIFIED BY (Typed Name and Signature)	HEARING REFERRED TO
☐ ADMINISTRATIVE ☒ SERIOUS	A-1	8/30/07	▶ [signature]	☐ HO ☒ SHO ☐ SC ☐ FC

COPIES GIVEN INMATE BEFORE HEARING

	BY: (STAFF'S SIGNATURE)	DATE	TIME	TITLE OF SUPPLEMENT
☒ CDC 115 CDC 115-A	▶ [signature]	[illegible]	[illegible]	[illegible]

	BY: (STAFF'S SIGNATURE)	DATE	TIME	BY: (STAFF'S SIGNATURE)	DATE	TIME
☒ INCIDENT REPORT LOG NUMBER: L-FBY-07-08-0240	▶ [signature] 1065	[illegible]	1930	▶ [signature] 1065	[illegible]	1930

HEARING

REFERRED TO ☐ CLASSIFICATION ☐ BPT/NAEA

ACTION BY: (TYPED NAME)	SIGNATURE	DATE	TIME
	▶		

REVIEWED BY: (SIGNATURE)	DATE	CHIEF DISCIPLINARY OFFICER'S SIGNATURE	DATE
▶		▶	

	BY: (STAFF'S SIGNATURE)	DATE	TIME
☐ COPY OF CDC 115 GIVEN INMATE AFTER HEARING	▶		

CDC 115 (7/88)

OSP 99 25082

RECEIVED CAL APPEALS OCT 24 2007

CALIPATRIA STATE PRISON CAL B 07 01769
Calipatria, California

FIRST LEVEL APPEAL RESPONSE

NAME: INMATE ROBINSON, J71342

APPEAL LOG #: CAL-B-07-01769

INTERVIEWED: BY R. JOHNSON, CORRECTIONAL LIEUTENANT

APPEAL ISSUE: PROGRAM

APPEAL DECISION: PARTIALLY GRANTED

APPEAL RESPONSE: In consideration of your appeal, a review of the appeal and its attachments was conducted. The California Code of Regulations (CCR) and all applicable laws and procedures were also considered.

In your appeal you claim that T. Catlett, Correctional Sergeant committed perjury and fraud by falsifying a CDC 128B, Informational Chrono, alleging that you were observed striking another inmate numerous times with your cane. You claim to be experiencing pain and suffering due to being deprived the use of your cane.

In your appeal, you request that the CDC 128B be inspected and corrected, Sergeant. Catlett be counseled, and that you be compensated $5000.00 for libel, slander and pain and suffering.

On October 13, 2007, R. Johnson, Correctional Lieutenant, interviewed you regarding your Appeal Log #CAL-B-07-01769 during the interview you stated: "Maintain action requested."

A review was conducted of all pertinent documents, these documents reflect that an incident occurred in which you were observed using your cane to strike another inmate and the inmate had sustained injuries consistent with being struck with the cane. You were charged with Battery on inmate with a Weapon (Cane). The cane was secured as evidence as with all confiscated weapons. The CDC 128B is the document utilized to identify the disposition of the evidence and the source document to provide information related to the safety and security of the institution, staff and inmates. Additionally, you have been provided a replacement cane to use.

Based on the above, your appeal is Partially Granted at the First Level of Review. Partial granting is due to the CDC 128B being reviewed.

The appellant is advised that this issue may be submitted for a Second Level of Review if desired.

R. Johnson
Correctional Lieutenant
Calipatria State Prison

10/16/07
Date

State of California Department of Corrections and Rehabilitation

Memorandum

Date : NOV 14 2007

To : INMATE ROBINSON, J71342

Subject : **SECOND LEVEL APPEAL RESPONSE LOG NO.: CAL-B-07-01769**

ISSUE: PROGRAM

it is your position that Correctional Sergeant T. Catlett, committed perjury and fraud in falsifying and fabricating false allegations in a CDC 128-B, Informational Chrono dated August 17, 2007, alleging that you were observed striking another inmate numerous times with your cane. This CDC 128-B was used as documentation to support removing the cane from your possession as a safety and security measure. You further note in your appeal that you are experiencing pain and suffering due to being denied your walking cane based on the above noted documentation.

You are requesting that the CDC 128-B dated August 17, 2007, be inspected and corrected, that Sergeant Catlett be counseled, and that you be compensated $5,000.00 for libel, slander and pain and suffering.

INTERVIEWED BY: Correctional Lieutenant R. Johnson on October 13, 2007, in preparation for the First Level Appeal Response.

REGULATIONS: In consideration for your appeal, a review of the appeal and its attachments was conducted. The California Code of Regulations (CCR) and all applicable laws and procedures were also considered.

DISCUSSION:

This appeal was partially granted at the First Level of Review in that the CDC 128-B dated October 13, 2007, was reviewed by Correctional Lieutenant Johnson. In that response, Lieutenant Johnson noted that you were provided a replacement cane. In your Second Level Review Request you note that Lieutenant R. Johnson deliberately indifferently misstated the facts of the evidence and falsified and fabricated allegations in his attached CDCR 837-A, A1 Cover Sheet/Supplemental Report dated August 17, 2007, which set in motion the act committed by Sergeant Catlett. For this reason, you note your disagreement with Lieutenant R. Johnson investigating or reviewing this appeal at the First Level of Review.

A review of Crime/Incident Report, Log #CAL-FBY-07-08-0240 dated August 17, 2007, reveals that you were observed swinging your cane attempting to strike another inmate. Nowhere in the written reports for this incident is it documented that you struck the other inmate numerous times with your cane, as documented in the CDC 128-B dated August 17, 2007. Therefore, the CDC 128-B dated August 17, 2007, has been revised (see attached) to accurately reflect the circumstances that led to your cane being confiscated.

DECISION:

The appeal is Partially Granted at the Second Level of Review in that **the CDC128-B dated August 17, 2007, has been revised to accurately reflect the circumstances that led to your cane being confiscated.**

The appellant is advised that this issue may be submitted for a Director's Level of Review if desired.

T. OCHOA
Chief Deputy Warden
Calipatria State Prison

CAL B0701769

NAME and NUMBER ROBINSON J-71342 CSP-CAL IV CDC-128-B(Rev.4/74)

On Friday, August 17, 2007, at approximately 1129 hours, Inmate ROBINSON, J-17342, was involved in an incident of Battery on an Inmate with a Weapon, as referenced in Crime/Incident Report, Log #CAL-FBY-07-08-0240. During this incident Inmate ROBINSON was observed attempting to utilize his Cane to assault another inmate. The use of Oleoresin Capsicum spray was necessary in order to quell Inmate ROBINSON's aggressive attempt of using his Cane. The Cane was subsequently placed into evidence, and staff has determined that continued possession of the Cane by Inmate ROBINSON could possibly pose a grevous threat to the safety and security of staff, inmates and the institution.

Inmate ROBINSON is aware of this report.

Orig: Central File
cc: Program Lieutenant
CCI
Housing Unit
Security and Investigations Unit
Inmate

T.A. CATLETT, Correctional Sergeant
Facility "B" Program Sergeant
Calipatria State Prison

DATE 08/17/07 (INFORMATIVE) GENERAL CHRONO

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: MAR 0 5 2008

In re: Nehemiah Robinson, J71342
Calipatria State Prison
P.O. Box 5002
Calipatria, CA 92233

IAB Case No.: 0715870 Local Log No.: CAL-07-01769

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner P. D. Vera, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

I **APPELLANT'S ARGUMENT:** It is the appellant's position that Correctional Sergeant (Sgt.) T. Catlett committed perjury and fraud in falsifying and fabricating false allegations that the appellant was observed striking the other inmate numerous times with his cane on August 17, 2007. He claims that he is experiencing pain and suffering and has been denied his walking cane based upon the CDC Form 128-B, General Chrono, authored by Sgt. Catlett. The appellant requests that authorized staff inspect and correct the CDC 128B dated August 17, 2007, authored by Sgt. Catlett. The appellant also requests for Sgt. Catlett to be counseled. He further requests to be compensated $5000.00 for libel, slander and pain and suffering.

II **SECOND LEVEL'S DECISION:** The reviewer found that the appellant's appeal was partially granted at the First Level of Review in that the CDC 128-B dated October 13, 2007, was reviewed by Correctional Lieutenant (Lt.) Johnson. In that response, Lt. Johnson noted that the appellant was provided a replacement cane. A review of the Crime Incident Report Log #Calipatria State Prison (CAL)-FBY-07-08-0240 dated August 17, 2007, reveals that the appellant was observed swinging his cane attempting to strike another inmate. Nowhere in the written reports for this incident is it documented that the appellant struck the other inmate numerous times with his cane, as documented in the CDC 128-B. Therefore, the CDC 128-B dated August 17, 2007, was revised to accurately reflect the circumstances that led to the appellant's cane being confiscated. The appellant's appeal is partially granted at the Second Level of Review (SLR) in that the CDC 128-B dated August 17, 2007, has been revised to accurately reflect the circumstances that led to the appellant's cane being confiscated.

III **DIRECTOR'S LEVEL DECISION:** Appeal is denied.

A. **FINDINGS:** The examiner reviewed the issues of the appellant's appeal and reaffirms the institution's examination and conclusions as addressed within the SLR. The appellant's CDC 128-B dated August 17, 2007, was revised to reflect the circumstances that led to the appellant's cane being confiscated. In addition, the appellant was provided a replacement cane for use. The appellant's request to be compensated $5000.00 is unfounded and beyond the scope of the appeals process. Although the appellant has the right to submit an appeal, the appellant's request for counseling Sgt. Catlett is beyond the scope of the appeals process. Therefore, no further relief is warranted at the Director's Level of Review.

The appellant has added new issues and requests to his appeal. The additional requested action is not addressed herein as it is not appropriate to expand the appeal beyond the initial problem and the initially requested action (CDC Form 602, Inmate/Parolee Appeal Form, Sections A and B).

B. **BASIS FOR THE DECISION:**
California Code of Regulations, Title 15, Section: 3001, 3005, 3286, 3391
CDC Operations Manual Section: 72010.7.2

C. **ORDER:** No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR. If dissatisfied, the appellant may forward this issue to the California Victims Compensation and Government Claims Board, (formerly known as the State Board of Control), Government Claims Unit, P.O. Box 3035, Sacramento, CA 95812-3035, for further review.

N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, CAL
Appeals Coordinator, CAL

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CDC 1858 (2/97)

RIGHTS AND RESPONSIBILITY STATEMENT

The California Department of Corrections has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] **FOR ANY IMPROPER POLICE** [or peace] **OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS'** [or inmates'/parolees'] **COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN** [or inmate/parolee] **COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.**

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE. [An inmate/parolee who makes a complaint against a departmental peace officer, knowing it is false, may be issued a serious disiplinary rule violation, in addition to being prosecuted on a misdemeanor charge.]

COMPLAINANT'S PRINTED NAME	COMPLAINANT'S SIGNATURE	DATE SIGNED	
INMATE/PAROLEE PRINTED NAME NEHEMIAH ROBINSON J-71342	INMATE/PAROLEE'S SIGNATURE [signature]	CDC NUMBER J-71342	DATE SIGNED 9-11-07
RECEIVING STAFF'S PRINTED NAME	RECEIVING STAFF'S SIGNATURE	DATE SIGNED	

DISTRIBUTION:
ORIGINAL -
Public - Institution Head/Parole Administrator
Inmate/Parolee - Attach to CDC form 602
Employee - Institution Head/Parole Administrator
COPY - Complainant

VERIFICATION

STATE OF CALIFORNIA
COUNTY OF IMPERIAL

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

I, NEHEMIAH ROBINSON J-71342 DECLARE UNDER PENALTY OF PERJURY THAT: I AM THE PLAINTIFF IN THE ABOVE ENTITLED ACTION; I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS ______ DAY OF: ______ 2008 AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002

(SIGNATURE) [signature] (DECLARANT/PRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746)

I, NEHEMIAH ROBINSON J-71342 AM A RESIDENT OF CALIPATRIA STATE PRISON, IN THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA. I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM / NOT A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX 5002, CALIPATRIA, CALIFORNIA #92233-5002.

ON ______ 2008 I SERVED THE FOREGOING: 1.) PLAINTIFF'S NOTICE OF MOTION, 2.) PLAINTIFF'S OPPOSITION TO DEFENDANTS MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, 3.) MEMORANDUMS OF POINTS AND AUTHORITIES IN SUPPORT; 4.) DECLARATION OF N. ROBINSON IN SUPPORT OF REQUEST FOR JUDICIAL NOTICE AND SUPPORT OF OPPOSITION TO DEFENDANTS MOTION TO DISMISS PLAINTIFFS FIRST AMENDED COMPLAINT; EXHIBITS ATTACHED TO DECLARATION 1-4.

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002.

1) DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
110 WEST "A" STREET, SUITE 1100
SAN DIEGO, CA. 92101

2) CLERK OF U.S. DISTRICT COURT
880 FRONT STREET, ROOM 4290
SAN DIEGO, CA. 92101-8900

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: ______ [signature] *(DECLARANT/PRISONER)*

VERIFICATION

STATE OF CALIFORNIA
COUNTY OF IMPERIAL

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

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EXECUTED THIS 1ST DAY OF: AUGUST 2008 AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002

(SIGNATURE) [signature]
(DECLARANTIPRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746)

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ON AUGUST 1, 2008 I SERVED THE FOREGOING: 1.) PLAINTIFF'S NOTICE OF MOTION, 2.) PLAINTIFF'S OPPOSITION TO DEFENDANTS MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, 3.) MEMORANDUMS OF POINTS AND AUTHORITIES IN SUPPORT, 4.) DECLARATION OF N. ROBINSON IN SUPPORT OF REQUEST FOR JUDICIAL NOTICE AND SUPPORT OF OPPOSITION TO DEFENDANTS MOTION TO DISMISS PLAINTIFFS FIRST AMENDED COMPLAINT, EXHIBITS ATTACHED TO DECLARATION 1-4.

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002.

1) DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
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SAN DIEGO, CA. 92101

2) CLERK OF U.S. DISTRICT COURT
880 FRONT STREET, ROOM 4290
SAN DIEGO, CA. 92101-8900

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: AUGUST 1, 2008. [signature]
(DECLARANTIPRISONER)